

Addendum
to
INSLAW's ANALYSIS and REBUTTAL
of the
BUA REPORT

Memorandum in Response to the
March 1993 Report of Special Counsel Nicholas J. Bua
to the Attorney General of the United States
Responding to the Allegations of INSLAW, Inc.



Elliot L. Richardson
Michael E. Friedlander
Philip L. Kellogg
Charles R. Work
James L. Lyons
William A. Hamilton
Nancy Burke Hamilton

February 14, 1994

EXECUTIVE SUMMARY

Eleven years ago, the Justice Department's PROMIS Project Manager arranged for an Israeli Government official to visit INSLAW for a PROMIS briefing and demonstration. The Justice Department told INSLAW that the visitor was a prosecuting attorney from the Israeli Ministry of Justice who would be overseeing a project to computerize the public prosecution offices in Israel.

Three months after the visit, the Justice Department secretly turned over to a representative of the Israeli Government a copy of the PROMIS software, according to a contemporaneous internal Justice Department memorandum¹ made public by the House Judiciary Committee in its September 1992 Investigative Report, The INSLAW Affair.

INSLAW followed up on this disclosure by the House Judiciary Committee by contacting the Israeli Ministry of Justice in Tel Aviv about the "prosecuting attorney" who had visited INSLAW ten years earlier in February 1983. After obtaining information from the Ministry about the current location of the prosecuting attorney, INSLAW consulted with two journalists in Tel Aviv. One journalist interviewed the now-retired prosecuting attorney at his home in Jerusalem. The prosecuting attorney bore no resemblance to the visitor to INSLAW and was unfamiliar with some important aspects of the visit to INSLAW, although he claimed to have been the February 1983 Israeli visitor to INSLAW. The other journalist told INSLAW that the prosecuting attorney's name has been used in the past as a pseudonym for Rafi Eitan, a legendary Israeli intelligence official.

INSLAW employees who had met with the Israeli visitor in February 1983 attempted to identify the visitor from a police-style photographic line-up. The process was videotaped in the studio of a national television network. The photographic line-up confirmed that the visitor to INSLAW was neither a prosecutor nor an attorney, but Rafi Eitan. At the time of the visit to INSLAW, Rafi Eitan was Director of LAKAM, a super-secret agency in the Israeli Ministry of Defense responsible for collecting scientific and technical intelligence information from other countries through espionage. Rafi Eitan became well known in the United States, several years after his visit to INSLAW, when Jonathan Pollard, a U.S. Navy civilian intelligence analyst, was arrested and charged with spying for Rafi Eitan and Israeli intelligence.

During the interim between Rafi Eitan's visit to INSLAW and the delivery of a copy of PROMIS to an Israeli official, the Government's PROMIS Project Manager and others in the Justice Department pressured INSLAW to deliver to the Justice Department, without any protection for INSLAW's property rights, the proprietary version of PROMIS that was not required to be delivered under INSLAW's PROMIS Implementation Contract.

¹ The internal memorandum states that the Justice Department gave an earlier, public domain version of PROMIS to Israel. That version was for operation on a line of computers that had already been made obsolete by the same manufacturer's VAX line of computers. The Justice Department had, however, asked INSLAW to demonstrate the up-to-date proprietary, VAX version of PROMIS to the Israeli visitor. The delay from February to May 1983 in turning over a copy of PROMIS to Israel corresponds with the delay in the Justice Department's acquisition of the proprietary VAX version of PROMIS from INSLAW.

The particular proprietary version of PROMIS that was the object of this Justice Department pressure was the version that INSLAW had demonstrated to the Israeli Government visitor and that operates on a VAX computer. INSLAW was operating this proprietary version of PROMIS on a computer at INSLAW's offices and using it to support each of the 10 largest U.S. Attorneys' Offices, via telephone lines. Under its three-year contract, INSLAW was to provide this PROMIS computer time-sharing service on an interim basis until each of the U.S. Attorneys' Offices acquired its own computer, and INSLAW thereafter was to install an earlier, public domain version of PROMIS on those computers.

The Justice Department explained this pressure to obtain immediate delivery of a copy of the proprietary VAX version of PROMIS by a suddenly-professed concern about INSLAW's financial viability. In response to this professed concern, INSLAW offered to place a copy of the VAX version of PROMIS in escrow in a local bank; that would have been the accepted industry remedy for the professed problem. The Justice Department, however, rejected INSLAW's escrow offer and insisted on immediately obtaining physical custody of a copy of the proprietary VAX version of PROMIS.

The Justice Department eventually accomplished its objective of physical custody of a copy of the VAX version of PROMIS through a bilateral modification to the contract in which the Government committed itself, inter alia, not to disseminate the proprietary version of PROMIS outside the U.S. Attorneys' Offices. This was the April 11, 1983 Modification #12 to the PROMIS Implementation Contract. None of the U.S. Attorneys' Offices had a VAX computer, without which it is impossible to use a VAX version of PROMIS.

Two lower federal courts found that the Justice Department entered into Modification #12 in order to "steal" the proprietary version of PROMIS "through trickery, fraud and deceit." The House Judiciary Committee independently confirmed those findings in the course of a three-year-long investigation.

Rafi Eitan emerged again in the INSLAW affair in 1986 when INSLAW filed a lawsuit against the Justice Department over the theft of the PROMIS software. INSLAW's lead litigation counsel was fired by his law firm amid secret communications between the law firm and the two highest officials of the U.S. Justice Department. The Attorney General stated under oath and the Deputy Attorney General claimed to the Senate that the secret discussions were about the INSLAW case; the law firm claimed to the press that the secret discussions were about its concurrent representation in the Jonathan Pollard-Rafi Eitan espionage case.

In May 1986, three years to the month after the Justice Department secretly turned over a copy of PROMIS to an Israeli Government official, INSLAW and senior partners in the law firm that was then serving as INSLAW's litigation counsel reviewed a complaint, drafted by INSLAW's lead counsel, for the lawsuit against the Justice Department about the theft of the proprietary version of PROMIS. The complaint contained over 50 references to Jensen; included was a 23-paragraph section that described the "personal involvement" of then Deputy Attorney General D. Lowell Jensen in the INSLAW affair, beginning with Jensen's tenure as Assistant Attorney General for the Criminal Division during the first several years of the Reagan Administration. The law firm immediately rejected the complaint that had been drafted by the lead counsel and set about to redraft the complaint in its entirety, assigning two additional lawyers to the INSLAW case for that purpose. These lawyers soon produced a new complaint

that omitted every reference to the role of D. Lowell Jensen. Prior to the filing of the revised complaint in U.S. Bankruptcy Court, the lead counsel inserted, at INSLAW's insistence, a single parenthetical reference to Jensen's role.

In October 1986, three months after INSLAW filed its lawsuit, the law firm fired INSLAW's lead counsel who had by then been a partner in the firm for 10 years. The lead counsel told INSLAW at the time that he had been fired for naming Jensen in the complaint. He also told INSLAW at the time that the Managing Partner had stated that Senior Partner Leonard Garment had instigated the firing.

On October 6, 1986, one week before Leonard Garment and the other members of the law firm's Senior Policy Committee met to vote on the decision to expel INSLAW's lead counsel from the firm, Garment had a social luncheon regarding INSLAW with Deputy Attorney General Arnold Burns. Garment never disclosed this fact either to INSLAW's lead counsel or to INSLAW. Burns had succeeded Jensen as Deputy Attorney General in the summer of 1986 when Jensen left the Justice Department to become a U.S. District Court Judge in San Francisco. During the luncheon, Burns complained to Garment about the litigation strategy that INSLAW's lead counsel was pursuing in its lawsuit against the Department and signalled to Garment his willingness to discuss a settlement, according to Burns' later disclosures to the Senate Permanent Investigations Subcommittee. Attorney General Meese also talked to Garment in October 1986 about INSLAW and about Garment's conversation with Burns relating to INSLAW, according to later sworn Justice Department responses to INSLAW interrogatories.

In early 1988, in statements to the press, Garment disclaimed any recollection of a discussion about INSLAW with Deputy Attorney General Burns and insisted that his October 1986 discussion with Attorney General Meese had been about Israel, not INSLAW. Moreover, Garment elaborated on this claim, reportedly telling at least one journalist that it was a discussion of a "back channel" communication that Garment had had with the Government of Israel about the Pollard case, which Garment described to the journalist as a national security problem affecting both Israel and the U.S. Justice Department.

The Israeli Government had retained Garment in an effort to prevent the indictment by the U.S. Justice Department of other Israeli officials involved in the Pollard espionage scandal. The central role of Rafi Eitan and Israeli intelligence in both the INSLAW affair and the Pollard espionage scandal may account for why Meese and Burns characterized the October 1986 discussions with Garment as having to do with INSLAW, while Garment insisted they were really about a national security problem of concern to both Israel and the U.S. Justice Department.

When Garment's law firm fired INSLAW's lead counsel, it agreed to make severance payments to him in excess of half-a-million dollars and contractually bound him to secrecy about the severance. Soon after firing INSLAW's lead counsel, the law firm, which had, by then, been representing INSLAW for almost a year, suddenly claimed to have discovered fatal deficiencies in the evidence available to prove the Justice Department's 1983 theft of PROMIS. The law firm presented INSLAW with a written ultimatum to concede to the Justice Department on that question or find new litigation counsel. INSLAW found new litigation counsel and proved in the U.S. Bankruptcy Court and the U.S. District Court that the Justice Department had stolen the PROMIS software in 1983.

A former Israeli intelligence official, Ari Ben Menashe, published a book in the fall of 1992 entitled Profits of War, that contains specific claims about Rafi Eitan and the PROMIS software, many of which are plausible in view of the aforementioned facts. According to the author, a high-ranking member of the White House National Security Council staff was personally involved in the delivery of a copy of the proprietary version of PROMIS to Rafi Eitan during a visit by Rafi Eitan to Washington, DC in the early 1980's. Robert McFarlane, who during the relevant period was Deputy National Security Advisor to President Ronald Reagan, and Earl W. Brian, a private businessman who had been a member of the California cabinet of Governor Ronald Reagan, secretly presented INSLAW's proprietary software to Rafi Eitan, according to the author.

The objective of the alleged White House gift of INSLAW's software to Rafi Eitan and Israeli intelligence was for Israeli intelligence, through sales conducted by cutout companies, to disseminate PROMIS to foreign intelligence agencies, law enforcement agencies, and international commercial banks so that PROMIS could function in those target organizations as an electronic Trojan horse for Allied signal intelligence agencies, according to the author.

Among the individuals whose companies served as cutouts for the illegal dissemination of PROMIS by Israeli intelligence, according to the author, were Earl W. Brian and the late British publisher, Robert Maxwell. Earl W. Brian, for example, allegedly sold the proprietary version of PROMIS to Jordanian military intelligence, so that Israeli signal intelligence could surreptitiously access the computerized Jordanian dossiers on Palestinians.

When INSLAW sought redress in the federal courts in 1986 for the Justice Department's 1983 theft of PROMIS, Israeli intelligence intervened to obstruct justice, according to the author. While employed in Tel Aviv by Israeli military intelligence, Ben Menashe claims to have seen a wire transfer of \$600,000 to Earl W. Brian for use in financing a severance agreement between INSLAW's fired lead counsel and his law firm. Rafi Eitan drew the funds from a slush fund jointly administered by U.S. and Israeli intelligence, and Earl W. Brian was, in turn, to relay the money to Leonard Garment, according to the author.

In a meeting at the Justice Department on December 16, 1993, INSLAW presented a sensitive document, authored by a self-evidently credible person, offering, under appropriate circumstances, to make available evidence corroborative of significant elements of Ben Menashe's published claims.

Another aspect of the role of Israeli intelligence in the INSLAW affair is its alleged use of Robert Maxwell as a cutout. Maxwell's role as a cutout for a foreign nation's sale of computer software has been implicitly acknowledged by the actions of the FBI. Robert Maxwell's dissemination of computer software was the subject of an FBI foreign counterintelligence investigation in 1984. Ten years later, in January 1994, INSLAW obtained, under the Freedom of Information Act (FOIA), 18 pages relating to an investigation on this subject in New Mexico in June 1984. The FBI furnished the documents to INSLAW in response to a FOIA request for documents relating to Maxwell's involvement in "the dissemination, marketing or sale of computer software systems, including but not limited to the PROMIS computer software product, between 1983 and 1992." The FBI heavily redacted the 18 pages and ascribed the redactions to the secrecy requirements of national security. One month before

the FBI released the documents to INSLAW, it partially reclassified two of the pages that had been officially declassified in their entirety one year earlier. The FBI redacted the newly reclassified portions in the copies given to INSLAW.

Robert Maxwell also developed a business relationship during the latter half of the 1980's with two computer systems executives from the Meese Justice Department, at least one of whom had responsibilities relating to the proprietary version of PROMIS. Robert Maxwell set up a tiny publishing company in McLean, Virginia, in August 1985. That company then hired two senior computer systems executives from a unit of the Meese Justice Department that operated the proprietary version of PROMIS. One was the Director of the Justice Data Center, the Justice Department's own internal computer time-sharing facility where the proprietary IBM version of PROMIS was operating for one of the legal divisions under license from INSLAW. The Director of the Justice Data Center resigned his estimated \$90,000-a-year Senior Executive Service position to become Vice President for Technical Services at the six-employee start-up national defense publishing company owned by Robert Maxwell.

In piecing together the puzzle of the Government's theft of the proprietary version of PROMIS from INSLAW, we have noted the role of the Government's PROMIS Project Manger in sending Rafi Eitan to INSLAW under false pretenses and the alleged role of a senior White House National Security official in giving the proprietary version of PROMIS to Rafi Eitan. The missing piece to the puzzle appears to be the piece that links the actions of the Justice Department's PROMIS Project Manager with the alleged actions of the senior White House National Security official. Based on the available evidence, the missing piece appears to be D. Lowell Jensen, who was Assistant Attorney General for the Criminal Division at the time of the theft.

Jensen pre-approved virtually every decision taken by the Government's PROMIS Project Manager under INSLAW's contract, according to the latter's sworn testimony to the House Judiciary Committee. Jensen engineered INSLAW's problems with the Justice Department through specified top Criminal Division aides in order to give the PROMIS business to unidentified "friends," according to Justice Department officials whose statements and backgrounds INSLAW summarized in its July 11, 1993 rebuttal.

At the time of the 1983 theft, Jensen in the Criminal Division and Edwin Meese at the White House were planning to award a massive sweetheart contract to unidentified "friends" for the installation of PROMIS in every litigative office of the Justice Department, according to statements made in June 1983 by a Justice Department whistleblower to the staff of a Senator on the Judiciary Committee. The award was allegedly to take place once Meese left the White House to become Attorney General. Jensen and Meese had been close friends since the 1960's when they served together in the Alameda County, California, District Attorney's Office.

INSLAW has repeatedly given the Justice Department the names of senior Criminal Division officials under Jensen who either allegedly helped him implement the malfeasance against INSLAW or who allegedly witnessed it. On more than one occasion, INSLAW summarized for the Justice Department the circumstantial evidence that is at least partially corroborative of these allegations. Based on warnings from confidential informants in the Justice Department, INSLAW has repeatedly emphasized to the Justice Department the absolute necessity of placing these officials under oath before interrogating them, as well as the

importance of a public statement by the Attorney General guaranteeing no reprisals. More than five years have elapsed since INSLAW began furnishing this information to the Justice Department. Not one of these Criminal Division officials has, it appears, ever been interrogated under oath regarding the INSLAW affair. And no Attorney General has seen fit to issue a public statement to Justice Department employees making it clear that the Attorney General wishes employees who have information about the INSLAW affair to come forward, and giving Justice Department employees the public assurance that reprisals will not be tolerated.

One of the senior Criminal Division officials who allegedly knows the whole story of Jensen's malfeasance against INSLAW is Mark Richard, the career Deputy Assistant Attorney General who has responsibility for intelligence and national security matters. In May 1988, the Chief Investigator of the Senate Judiciary Committee told INSLAW that a trusted source, who was in a position to observe Jensen's malfeasance, had identified Mark Richard as someone who not only knew the whole story but who was also "pretty upset" about it.

One of the organizational units that reports to Mark Richard is the Office of Special Investigations (OSI). OSI's publicly-declared mission is to locate and deport Nazi war criminals. The Nazi war criminal program is, however, a front for the Justice Department's own covert intelligence service, according to disclosures recently made to INSLAW by several senior Justice Department career officials.

One undeclared mission of this covert intelligence service has been the illegal dissemination of the proprietary version of PROMIS, according to information from reliable sources with ties to the U.S. intelligence community. INSLAW has, moreover, obtained a copy of a 27-page Justice Department computer printout, labelled "Criminal Division Vendor List." That list is actually a list of the commercial organizations and individuals who serve as "cutouts" for this secret Justice Department intelligence agency, according to intelligence community informants and a preliminary analysis of the computerized list. A significant proportion of the 100-plus companies on the list appear to be in the computer industry. The Justice Department's secret intelligence agency also has its own "proprietary" company that employs scores of agents of diverse nationalities, as well as individuals who appear to be regular employees of various departments and agencies of the U.S. Government or members of the U.S. Armed Forces, according to several sources.

According to written statements of which INSLAW has obtained copies, another undeclared mission of the Justice Department's covert agents was to insure that investigative journalist Danny Casolaro remained silent about the role of the Justice Department in the INSLAW scandal by murdering him in West Virginia in August 1991. INSLAW has acquired copies of two relevant written statements furnished to a veteran investigative journalist by a national security operative of the U.S. Government, several months after Casolaro's death. The individual who reportedly transmitted these written statements to the journalist by fax has testified under oath to being a national security operative for the FBI and the CIA. Partial corroboration for his claimed work for the FBI is reportedly available in the sworn testimony of several FBI agents during a recent criminal prosecution. One statement purportedly reflects the operative's personal knowledge and belief that Casolaro was killed by agents of the Justice Department and is allegedly written in the operative's own hand. The other statement is an excerpt from a typewritten set of questions and answers. The questions were posed to a senior CIA official by the investigative journalist; the answers, purportedly from the senior CIA

official, were reportedly sent by fax to the journalist by the national security operative, who was acting as an intermediary. The following is the pertinent question and answer:

Q. Do you have any information for [San Francisco-based investigative journalist] George Williamson yet regarding the Danny Casolaro matter?

A. Yes. Casolaro appears to have been working as a free lance writer at the time of his death and was gathering material for a book. He was investigating the INSLAW case. He was on the trail of information that could have made the whole matter public and led to the exposure of the Justice Department and their involvement in the matter. Apparently he was very close to obtaining that information.

We do not agree with the consensus of opinion among the reporters who looked into the matter, that Casolaro committed suicide. Casolaro was murdered by agents of the Justice Department to insure his silence. The entire matter was handled internally by Justice, and our agency was not involved.

Although these allegations are profoundly disturbing, there is significant circumstantial evidence that bears on the plausibility of the allegations. As reported in INSLAW's July 11, 1993 rebuttal, Casolaro was scheduled to have his final, follow-up meeting with two sources on INSLAW in West Virginia the night before he died, and one of those sources was connected to the Justice Department's PROMIS Contracting Officer. As reported in this addendum, the meeting between Casolaro and those sources had allegedly been brokered by a covert intelligence operative for the U.S. Government, an Army Special Forces Major. This individual appeared in Casolaro's life during the final several weeks and introduced himself to Casolaro as one of the closest friends of the Government's PROMIS Contracting Officer. Finally, during the final week of his life, Casolaro told at least five confidants something that he had never told a single one of them at any other time during his year-long, full-time investigation: that he had just broken the INSLAW case. The preceding facts and the following information are noted in the July 11, 1993 rebuttal. Shortly after Casolaro was found dead, the aforementioned covert intelligence operative allegedly made the following statement, in words or substance, to a woman who had been present during several of his meetings with Casolaro:

What Danny Casolaro was investigating is a business. If you don't want to end up like Danny or like the journalist who died a horrific death in Guatemala, you'll stay out of this. Anyone who asks too many questions will end up dead.

Not all of the secret Justice Department dissemination of PROMIS has gone through Rafi Eitan and Israeli intelligence. For example, in June 1983, the month after the Justice Department secretly conveyed a copy of PROMIS to a representative of the Government of Israel, it also, in partnership with the National Security Agency (NSA), secretly delivered a copy of PROMIS to the World Bank and the International Monetary Fund, according to a recent series of articles in the American Banker's International Banking Regulator. The Justice Department and its NSA partner conveyed a copy of the proprietary VAX version of PROMIS to the two international financial institutions so that the NSA could electronically monitor their operations.

This is the same version of PROMIS that the Justice Department had asked INSLAW to demonstrate to Rafi Eitan in February 1983. As noted earlier, the Justice Department had committed itself not to disseminate the proprietary version of PROMIS outside the U.S. Attorneys' Offices.

A second example is the alleged secret Justice Department conveyance of a copy of the proprietary IBM version of PROMIS to the CIA. In September 1993, CIA Director R. James Woolsey told INSLAW counsel Elliot L. Richardson that the CIA is using a PROMIS software system that it acquired from the NSA and that is identical to the PROMIS software that NSA uses internally and that is described on page 80 of the Bua Report. The application domain of the NSA's PROMIS is the mission critical application of tracking the intelligence information it produces. The NSA's PROMIS operates on an IBM mainframe computer. This latest CIA disclosure underscores the difficulty the CIA has had in accounting for its PROMIS. The CIA initially told the House Judiciary Committee in writing that it had been unable to locate internally any PROMIS software. Approximately one year later, the CIA wrote again to the House Judiciary Committee, stating that components of the CIA were operating a software system called PROMIS but that it had purchased its PROMIS from a company in Massachusetts. That PROMIS operates on a personal computer with project management as the application domain. In both written reports, the CIA inexplicably failed to mention the PROMIS that operates on an IBM mainframe computer at the CIA and that is critical to the CIA's primary mission of producing intelligence information.

The third example is the alleged Justice Department secret dissemination of PROMIS to the NSA. Although the NSA is quoted in the Bua Report as claiming that it internally developed its PROMIS, the Toronto Globe and Mail reported in May 1986 that the NSA had purchased a PROMIS software system from a Toronto-based company. As shown in Exhibit A to INSLAW's July 11, 1993 rebuttal, Earl Brian's Hadron, Inc. sold INSLAW's PROMIS to the same Toronto company in 1983, in a transaction that also allegedly involved Edwin Meese, then Counsellor to the President.²

The final example concerns the allegation that the Justice Department secretly distributed the proprietary VAX version of PROMIS to the U.S. Navy for an intelligence application on board nuclear submarines. The Navy confirmed to a reporter for Navy Times that it has a PROMIS software system and that it operates its PROMIS on a VAX computer in support of its nuclear submarines. The Navy's Undersea Systems Center in Portsmouth, Rhode Island, furthermore, notified the reporter in writing that its engineers had locally developed this VAX version of PROMIS; that its PROMIS is installed only at its land-based facility at Newport, Rhode Island; and that its PROMIS has never been installed on board any nuclear submarine. INSLAW has, however, obtained a document published by the same Undersea Systems Center in 1987 that reveals that its PROMIS is not only operating at the land-based "test facility" in Newport, but is also operational on board both attack class and "boomer" class submarines. The Navy, like the CIA and the NSA, clearly has difficulty in giving a credible accounting of its PROMIS software.

² In 1984, Independent Counsel Jacob Stein investigated Edwin Meese's undisclosed business and financial ties with Earl Brian but did not bring criminal charges because of the lack of evidence that Meese had influenced U.S. Government actions to benefit Brian financially as a quid pro quo for benefits that Brian had extended to the Meese family.

The Justice Department continues to try to convince INSLAW, Congress, the press and the American public that the INSLAW affair is, at best, a government contract dispute which could have been resolved long ago if INSLAW had submitted the dispute to the only forum deemed appropriate by the Justice Department: an Executive Branch Contract Appeals Board. What the evidence summarized in this addendum demonstrates, however, is that the essence of the INSLAW affair is radically different. The INSLAW affair was a premeditated, cynical and deceitful taking of INSLAW's software property by the chief law enforcement agency of the United States without due process of law and without compensation to INSLAW in violation of the Fourth Amendment to the Constitution.

They [the Hamiltons] don't know squat about how dirty that INSLAW deal was. If they ever find out half of it, they will be sickened.

It is a lot dirtier for the Department of Justice than Watergate.

It is not just the breadth of it, but also the depth of it. The Department of Justice has been compromised at every level.

- Statements attributed to a senior Justice Department
 career official by the Chief Investigator of the Senate
 Judiciary Committee in 1988

TABLE OF CONTENTS

(Bolded headings indicate additions to INSLAW's Analysis and Rebuttal dated July 11, 1993)

	<u>Page</u>
I. DOJ WRONGFULLY OBTAINED AN ENHANCED VERSION OF PROMIS TO WHICH IT WAS NOT ENTITLED AND THEREAFTER HAS USED THAT VERSION WITHOUT PROPERLY COMPENSATING INSLAW	
C. DOJ Obtained Enhanced PROMIS Through Fraud and Deceit	
3. The Negotiation of Modification 12	
(a) Clarifying What the Justice Department Was Stealing from INSLAW in 1983 and Why	1
II.	
III. BUA'S INVESTIGATION OF POST-TRIAL LEADS ABOUT A MORE WIDELY-RAMIFIED CONSPIRACY INVOLVING EARL BRIAN AND THE INTELLIGENCE AND LAW ENFORCEMENT AGENCIES OF THE UNITED STATES AND FOREIGN GOVERNMENTS	
A.	
4. VAX Version of PROMIS Allegedly Used for Intelligence Application On Board U.S. Nuclear Submarines	5
5. The CIA's Continuing Inconsistent Official Statements About the Source of Its PROMIS Software System	7
6. Apparent Inconsistent Statements About the Source of the NSA's PROMIS Software System	7
B.	
2. The Alleged Distribution of PROMIS to Israel and the Alleged Partnership of DOJ and Israeli Intelligence in the Theft of PROMIS	
(a) The Apparent Partnership Between the U.S. Justice Department and Israeli Intelligence in the Theft of INSLAW's PROMIS Software	9
(b) The Alleged Role of the Late Robert Maxwell in the Dissemination of PROMIS On Behalf of Israeli Intelligence	12

<ul style="list-style-type: none"> <ul style="list-style-type: none"> <ul style="list-style-type: none"> (c) An FBI Foreign Counterintelligence Investigation of Robert Maxwell for the Sale of Software in New Mexico in 1984 <ul style="list-style-type: none"> (d) The Apparent Collusion Between the U.S. Justice Department and Israeli Intelligence in an Effort in 1986 To Obstruct Justice in the INSLAW Case 3. The Alleged Distribution of the VAX Version of PROMIS to the World Bank and the International Monetary Fund 4. The Alleged Sale of the VAX Version of PROMIS to Jordanian Military Intelligence 5. The Alleged Sale of PROMIS to Egyptian Military Intelligence 	<p>12</p> <p>14</p> <p>17</p> <p>19</p> <p>19</p>
<ul style="list-style-type: none"> C. Bua's Investigation of Leads Relating to the Role of DOJ Officials in Either Facilitating or Covering Up the Use of INSLAW's PROMIS in Intelligence/National Security Programs <ul style="list-style-type: none"> 3. Office of Special Investigations (OSI) Allegedly a Front for Justice Department's Own Covert Intelligence Agency 4. OSI has Over 100 Commercial Organizations That Serve As Cutouts For its Covert Operations, Including its Illegal Trafficking in INSLAW's PROMIS Software 	<p>20</p> <p>23</p>
<ul style="list-style-type: none"> E. Bua's Investigation of the Death of Investigative Journalist, Danny Casolaro <ul style="list-style-type: none"> 3. According to Written Statements, Agents of the Justice Department Murdered Journalist Danny Casolaro In Order to Insure His Silence 	<p>24</p>
<ul style="list-style-type: none"> F. Bua's Comments About the Alleged Sham Contract Disputes <ul style="list-style-type: none"> 1. DOJ's Refusal, Apparently at the Behest of Presidential Appointee D. Lowell Jensen, To Resolve on the Merits the Main Contract Dispute with INSLAW, a Dispute That Is Self-Evidently Contrived <ul style="list-style-type: none"> (a) Computer Executive Implicated in the INSLAW Scandal Leaves Meese Justice Department to Become Officer in Company Owned by Maxwell 	<p>27</p>

I. DOJ WRONGFULLY OBTAINED AN ENHANCED VERSION OF PROMIS TO WHICH IT WAS NOT ENTITLED AND THEREAFTER HAS USED THAT VERSION WITHOUT PROPERLY COMPENSATING INSLAW

C.3. (a) Clarifying What the Justice Department Was Stealing from INSLAW in 1983 and Why

The Justice Department's Special Counsel Nicholas J. Bua stated in his report that Justice Department officials had not defrauded INSLAW in the winter and spring of 1983 and had not deliberately misappropriated the proprietary version of PROMIS. In making this statement, the Bua Report contradicted the fully litigated findings of two sitting federal judges, findings that were later independently confirmed and supplemented by the House Judiciary Committee. In INSLAW's Analysis and Rebuttal of the Bua Report, dated July 12, 1993, INSLAW documented errors and omissions in the Bua investigation that account for the failure of the Bua investigation to reach conclusions consistent with the outside reviews of the Justice Department's conduct.

In this section of the addendum, INSLAW demonstrates how facts that are not in dispute clarify what the Justice Department was stealing from INSLAW in 1983 and why the Justice Department was stealing it. Having deduced the precise objective of the theft, based on an analysis of facts that are not in dispute, INSLAW then shows, in later sections of this addendum, that the actual behavior of the Justice Department in the second half of 1983 is fully consistent with the imputed objective of the theft.

On April 11, 1983, the Justice Department and INSLAW executed a modification to INSLAW's three-year PROMIS Implementation Contract so that the Justice Department could immediately obtain a copy of PROMIS that was not originally intended for delivery under the contract. This was the copy of PROMIS that INSLAW operated on a VAX computer, located on INSLAW's premises, and that INSLAW used, via telephone lines, to provide PROMIS computer time-sharing services to each of the 10 largest U.S. Attorneys' Offices. This was an interim computer time-sharing arrangement until the Justice Department acquired its own computers to operate PROMIS in each of the 22 largest U.S. Attorneys' Offices. The version of PROMIS that was originally scheduled to be installed on the in-house computers was an earlier, public domain version. In contrast, the version of PROMIS that the Justice Department modified the contract in order to obtain contained all of INSLAW's proprietary enhancements.

As found by the two lower federal courts, the proprietary version of PROMIS, delivered to the Justice Department in response to the April 1983 contract modification, contained two major categories of software enhancements that INSLAW privately financed and that were not required to be delivered to the U.S. Government under any contract, including the PROMIS Implementation Contract. One category consisted of 97 new segments of code surgically inserted into the base PROMIS application. These new segments of code improve the efficiency and ease of use of PROMIS or add new features and functions. The other category consisted of three new self-standing software systems that stand apart from the base PROMIS application but work in tandem with it. One of the three major, new self-standing enhancements is the code that makes it possible to operate PROMIS on a VAX computer manufactured by Digital Equipment Corporation. The VAX computer is a 32-bit architecture machine, in contrast to the

16-bit architecture machines that dominated the computer industry during the 1970's. Accordingly, the two lower federal courts have referred to this major, self-standing enhancement as the "32-bit, VAX port."

Porting the PROMIS software to the VAX computer was a significant undertaking for which INSLAW had unique expertise. One facet of INSLAW's unique expertise was its broadly-based experience in porting on-line software systems to a variety of different computer hardware platforms. In the early 1980's, few application software vendors supported their products on a broad variety of computer hardware platforms, and, therefore, most vendors lacked experience in porting on-line software systems across different models and brands of computer hardware. Another facet of INSLAW's unique expertise in creating the VAX port was its experience with automated code generators. Such code generators were virtually unheard of in application software products in the early 1980's, but they were a key feature of PROMIS. Anyone attempting to port PROMIS to a new computer hardware platform would have had to have a solid grasp of how these generators functioned. The third facet of INSLAW's unique expertise in porting PROMIS to the VAX was its intimate knowledge of the hundreds of thousands of lines of PROMIS coded logic. A successful port presupposed such knowledge, but the only way to obtain such knowledge was through lengthy immersion in the internals of the PROMIS source code. If, therefore, the U.S. Government had an urgent requirement for a VAX version of PROMIS in the winter and spring of 1983, it would have had little practical choice but to turn to INSLAW.

At the time of the April 1983 contract modification, the VAX "port" was the only one of the aforementioned 100 proprietary enhancements to which the Justice Department did not already have physical access. The Justice Data Center was then operating the IBM mainframe computer version of PROMIS for Justice's Environment and Natural Resources Division. Under Annual Software Support Agreements with INSLAW, this Justice Department legal division had obtained a licensed copy of each official release by INSLAW of its proprietary enhancements, except, of course, those that were for a computer hardware environment different from its own, such as the VAX "port." Assuming, as the two lower federal courts found, that the Justice Department set out in the winter and spring of 1983 to steal INSLAW's proprietary enhancements, it could have achieved most of its objective simply by secretly but illegally copying the proprietary IBM version of PROMIS at the Justice Data Center.

What the Justice Department evidently wanted, however, was the VAX version of PROMIS. The actual behavior of the Justice Department in apparently secretly disseminating the VAX version outside the U.S. Attorneys' Offices, immediately after acquiring it from INSLAW, is supportive of this inference. Such dissemination was barred by the explicit language of the contract modification that the Justice Department executed in order to obtain this version of PROMIS from INSLAW. Moreover, the Justice Department was evidently simultaneously secretly copying and disseminating the IBM version of PROMIS, containing all of the proprietary enhancements except the code necessary for operation of PROMIS on the VAX computers. This latter fact is also consistent with the inference that the Justice Department's "trickery, fraud and deceit" in the winter and spring of 1983 was focused on the VAX port, the only proprietary enhancement that Justice did not already have access to for illegal copying.

That the Justice Department had an unexplained need for physical custody of the "VAX port" in the winter and spring of 1983 can be seen from two anomalies. First, the Justice Department explained its immediate need for the VAX version of PROMIS on a professed concern about INSLAW's financial viability but, inexplicably, rejected INSLAW's offer to place a copy of the VAX version of PROMIS in escrow at a local bank. Placing a copy of the software source code in escrow is the accepted industry response to a customer concern about a vendor's financial viability. Second, as noted above, the April 1983 contract modification contained language in which the Justice Department explicitly promised not to disseminate the proprietary version of PROMIS outside the U.S. Attorneys' Offices, and yet the U.S. Attorneys' Offices did not have a VAX computer and the computers that Justice acquired later in 1983 for in-house operation of PROMIS in each of the 22 largest U.S. Attorneys' Offices were not VAX computers.

The Justice Department's urgent effort in the winter and spring of 1983 to acquire physical custody of a copy of the "VAX port" implies, therefore, a plan for its immediate dissemination outside the U.S. Attorneys' Offices. In view of the language of the modification explicitly barring dissemination outside the U.S. Attorneys' Offices, the implementation of such a plan would obviously represent a premeditated, deceitful and cynical taking of INSLAW's proprietary software property without due process of law and without compensation to INSLAW in violation of the Fourth Amendment to the U.S. Constitution. Proof of such action would obviously destroy the ability of the Justice Department to continue to maintain that the INSLAW affair is, in essence, a government contract dispute that should have been submitted to an Executive Branch contract appeals board.

In this addendum, INSLAW summarizes new evidence and leads concerning the apparent illegal dissemination of the proprietary VAX version of PROMIS, developed since the publication of INSLAW's Analysis and Rebuttal of the Bua Report. This illegal dissemination by the Department began almost immediately after the Justice Department obtained the software from INSLAW through the April 1983 contract modification:

- III.A.4 "The VAX Version of PROMIS Is Allegedly Used for an Intelligence Application On Board U.S. Nuclear Submarines,"
- III.B.2(a) "The Apparent Partnership Between the U.S. Justice Department and Israeli Intelligence in the Theft of the VAX Version of PROMIS from INSLAW in 1983,"
- III.B.3 "The Alleged Distribution of the VAX Version of PROMIS to the World Bank and the International Monetary Fund in June 1983,"
- III.B.4 "The Alleged Sale of the VAX Version of PROMIS to Jordanian Military Intelligence," and

III.B.5 "The Alleged Sale of PROMIS to Egyptian Military Intelligence."

INSLAW also summarizes in this addendum evidence of simultaneous illegal Justice Department disseminations of the proprietary IBM version of PROMIS:

III.A.5 "The CIA's Continuing Inconsistent Official Statements About the Source of Its PROMIS Software System" and

III.A.6 "Apparent Inconsistent Statements About the Source of the NSA's PROMIS Software System."

III. BUA'S INVESTIGATION OF POST-TRIAL LEADS ABOUT A MORE WIDELY-RAMIFIED CONSPIRACY INVOLVING EARL BRIAN AND THE INTELLIGENCE AND LAW ENFORCEMENT AGENCIES OF THE UNITED STATES AND FOREIGN GOVERNMENTS

A.4. VAX Version of PROMIS Allegedly Used for Intelligence Application On Board U.S. Nuclear Submarines

In January 1991, a trusted INSLAW source with ties to the CIA passed on information to INSLAW from one or more senior officials of the CIA. According to this source, the U.S. intelligence community misappropriated the proprietary PROMIS software from the U.S. Justice Department in order to satisfy a longstanding requirement for compatible database management software in the intelligence community, and then integrated PROMIS with another commercially-available software product before implementing it in U.S. intelligence agencies. One of the first implementations of PROMIS in the intelligence community was for an intelligence application aboard nuclear submarines, according to this same source. The U.S. intelligence community appointed someone by the name of Lindsey to package the PROMIS software for Earl Brian to disseminate to intelligence world entities. One of Brian's disseminations was to Egypt's military intelligence agency through what "looks like a CIA holding company."

Independently of this source, another individual with ties to the CIA had told INSLAW in the fall of 1990 that the U.S. Navy owes INSLAW a substantial amount of money because its submarine program is a major consumer of pirated copies of INSLAW's PROMIS.

Several years later, INSLAW received information from still another source, a computer programmer on board a U.S. Navy nuclear submarine, that a stolen copy of INSLAW's PROMIS is operational on board the submarine on which he is stationed. INSLAW received this information through contact with an intermediary for the computer programmer.

In January 1992, INSLAW disclosed to Justice Department Special Counsel Nicholas J. Bua the claims INSLAW had by then received from the first two sources, but the Special Counsel evidently did not look into the matter. In the July 1993 rebuttal to the Bua Report, INSLAW again highlighted these claims, adding the information that INSLAW had received in the meantime from the computer programmer on board a nuclear submarine.

In February 1993, a friend of Mr. and Mrs. Hamilton, Mr. Terry D. Miller, President of Government Sales Consultants, Inc., wrote to the Navy's Inspector General suggesting that there was sufficient evidence to warrant an official inquiry into whether the nuclear submarine program is a major beneficiary of the U.S. Justice Department's theft of INSLAW's PROMIS software. On October 5, 1993, the Vice Admiral who serves as the Navy's Inspector General wrote to Mr. Miller confirming that the Navy's submarine program has a software system known by the acronym PROMIS but asserting that it was developed internally by the government and that it does not infringe any of INSLAW's copyrights.

A reporter for the Navy Times who, coincidentally, was working on a cover story about the Navy's submarine program, contacted the Navy regarding its use of "PROMIS" software. The Navy's submarine headquarters told the journalist that its PROMIS operates on a VAX computer, a VAX 11/780, Model 5, and that it is integrated with the commercially available DBMS (Data Base Management System) software product from Oracle Corporation of California. The submarine headquarters also told the reporter that there are two software products spelled P-R-O-M-I-S; that one is pronounced PROM'IS and is involved in litigation, while the other, i.e., the one used by the Navy, is pronounced PRŌ-MEESE'. In response to a question from the reporter, the submarine headquarters also denied that Earl Brian's Hadron had had any role in regard to the Navy's PROMIS, and then referred the reporter to the Navy's Undersea Systems Center in Newport, Rhode Island, for answers to his other questions.

The Navy's Undersea Systems Center subsequently replied in writing to the reporter's other questions, asserting that the Navy's PROMIS had never been installed on board a nuclear submarine, that PROMIS is operational only at the land-based facility of the Undersea Systems Center, that the application domain of the Navy's PROMIS is inventory tracking of equipment that has been distributed to the various submarines, and that engineers employed at the Undersea Systems Center had internally developed the Navy's PROMIS application.

These official U.S. Navy statements about its PROMIS software system are not only in conflict with the claims of the aforementioned INSLAW confidential informants but are also in conflict with other written disclosures by the Undersea Systems Center itself. For example, on November 5, 1987, the Undersea Systems Center published an announcement in the Commerce Business Daily that it was seeking a computer software vendor to provide software support services for its PROMIS database software system. In the published announcement, the Undersea Systems Center stated that the winning vendor would have to support each of the following versions of PROMIS: the "test facility" version of PROMIS at the land-based facility in Newport; two operational versions of PROMIS, one on the SSN (Sub-Surface Nuclear) "platform," i.e., on the attack class of submarine, and the other on the SSBN (Sub-Surface Ballistic Nuclear) "platform," i.e., on the "boomer" ICBM (Inter-Continental Ballistic Missile) class of submarine; and the on-line PROMIS training system on board both classes of submarines.

The Navy's official written statement that its PROMIS has never been installed on board a nuclear submarine is self-evidently false, indicating a desire on the part of the Navy to cover up aspects of its use of the PROMIS software. Other statements by the Navy about its PROMIS program are also suspect. The claim that the application domain for the Navy's PROMIS is inventory tracking is, for example, inconsistent with the separate disclosure in the Commerce Business Daily that there is an on-line PROMIS training system on board every nuclear submarine and that the Navy categorizes its PROMIS application as a combat support application. Finally, the claim that Earl Brian's Hadron had no role in the Navy's PROMIS is suspect when the Navy is not giving an accurate accounting about other aspects of PROMIS. Moreover, Hadron had software support contracts with the Undersea Systems Center and a local field office near Newport, Rhode Island, during the relevant years of the early and mid-1980's, as evidenced by Hadron's own annual reports.

5. The CIA's Continuing Inconsistent Official Statements About the Source of Its PROMIS Software System

During its three-year-long investigation of the INSLAW affair, the House Judiciary Committee sought the cooperation of the CIA in determining the validity of claims by a variety of witnesses that the CIA is using the proprietary version of PROMIS without license from INSLAW. The first written response to the Committee by the CIA was that it could find no indication of the use of a PROMIS software system at the CIA. The second written response to the Committee, almost a year later, was that several components of the CIA were using a PROMIS software system but that the CIA had acquired it from a small manufacturer of a personal computer-based project management software system known by the same PROMIS acronym. In September 1993, the CIA provided a third account when CIA Director R. James Woolsey told INSLAW counsel Elliot L. Richardson that the CIA has a PROMIS software system that it acquired from the NSA and that is identical to the NSA's own PROMIS software system as described on page 80 of the Bua Report.

Based on technical disclosures in the Bua Report, it is apparent that the NSA's and the CIA's PROMIS each operate on an IBM-compatible mainframe computer rather than on a personal computer, that the intelligence agency PROMIS is used for the mission-critical application domain of tracking the agencies' intelligence output or product, and that the intelligence community's PROMIS is integrated with another commercially-available software product, the M204 DBMS (Data Base Management System) from Computer Corporation of America.

The ultimate source of the CIA's PROMIS was, however, the Department of Justice, rather than the NSA, according to the January 1993 issue of Wired Magazine, a national computer industry publication. A recently retired CIA official, who claims to have worked on the official internal CIA inquiry about PROMIS in response to the House Judiciary Committee, is quoted to the effect that the internal CIA inquiry actually determined that the CIA had obtained INSLAW's PROMIS software from the Justice Department.

6. Apparent Inconsistent Statements About the Source of the NSA's PROMIS Software System

The pattern of deceptive statements about PROMIS by U.S. Government agencies has not been limited to the Navy and the CIA. The problem exists at the NSA as well, because the NSA's own account of the origin of its PROMIS software also appears to be inconsistent with other published accounts. Although the NSA told Justice Department Special Counsel Bua that it had internally developed its PROMIS software and the Bua investigation accepted the statement as true without placing the NSA spokesman under oath or demanding to inspect the source code, the Toronto Globe and Mail published a story on May 28, 1986 about the NSA acquiring a commercially-available PROMIS software product from a Toronto-based company, the PROMIS Systems Corporation subsidiary of I.P. Sharp.

In 1983, Earl Brian's Hadron made a very large PROMIS software product sale to the Government of Canada in a transaction that involved I.P. Sharp of Toronto, Edwin Meese, then

Counsellor to the President, and Earl Brian, according to a memorandum by John Belton, a former stockbroker in Canada, of his tape-recorded interviews in 1991 and 1992 with former Hadron executives and others. INSLAW published Belton's memorandum as Exhibit A to its July 1993 rebuttal to the Bua Report, and INSLAW had earlier informed Special Counsel Bua of Belton's information and records. Neither Bua nor anyone else from the Justice Department has ever contacted Belton, however.

During 1983, this well-established Toronto-based computer systems company obtained a trademark registration for its first application software product, which it calls PROMIS. This was the same year when the PROMIS transaction between Hadron and I.P. Sharp is alleged to have occurred. I.P. Sharp had never previously marketed an application software product. I.P. Sharp brought PROMIS to market in 1983 on a VAX computer. This PROMIS software product is, like INSLAW's PROMIS, a workflow tracking system, although it is designed for the factory rather than the office. The Toronto Globe and Mail reported that by 1986, at the time of PROMIS Systems Corporation's sale of PROMIS to the NSA, it had also released an IBM version of its PROMIS software.

A recently published book by Donald Goddard with Lester K. Coleman, entitled Trail of the Octopus: From Beirut to Lockerbie - Inside the DIA, states that the Justice Department's Drug Enforcement Administration (DEA) and the CIA had a joint front company in the Middle East, the EURAME Trading Corporation of Nicosia, Cyprus, that was distributing software from a Toronto, Canada, company with PROMIS in its name, to police and military agencies involved with drug control activities. According to the book, the U.S. Government had secretly modified the PROMIS software to permit undetected electronic eavesdropping against the computerized files of the drug control agencies in various countries of the Middle East. According to the book, Coleman was a covert intelligence agent with the U.S. Defense Intelligence Agency (DIA). The countries to which EURAME Trading Corporation allegedly distributed PROMIS for drug control are: Egypt, Syria, Pakistan, Turkey, Kuwait, Israel, Jordan, Iran and Iraq.

III. BUA'S INVESTIGATION OF POST-TRIAL LEADS ABOUT A MORE WIDELY-RAMIFIED CONSPIRACY INVOLVING EARL BRIAN AND THE INTELLIGENCE AND LAW ENFORCEMENT AGENCIES OF THE UNITED STATES AND FOREIGN GOVERNMENTS

B.2. (a) The Apparent Partnership Between the U.S. Justice Department and Israeli Intelligence in the Theft of INSLAW's PROMIS Software

On February 9, 1983, just five days after the initial meeting at the Justice Department during which the Government's PROMIS Project Manager demanded the immediate delivery of the VAX computer version of PROMIS, INSLAW received a visit from a representative of the Government of Israel. The Justice Department's PROMIS Project Manager had asked INSLAW to demonstrate the VAX version of PROMIS to this Israeli official, telling INSLAW that the Israeli visitor was "Dr. Ben Orr," a prosecuting attorney from the Ministry of Justice in Tel Aviv. The Israeli visitor expressed enthusiasm for the VAX version of PROMIS during the several hour meeting at INSLAW. The Government's PROMIS Project Manager had also told INSLAW that the Israeli official would be heading a project at the Israeli Ministry of Justice to computerize the public prosecution offices in Israel. This U.S. Justice Department official suggested that INSLAW might wish to invest the time in demonstrating the VAX version of PROMIS to the Israeli visitor because of the possibility that INSLAW might later be able to obtain a contract with the Israeli Ministry of Justice.

It was not until three months after "Dr. Ben Orr's" visit to INSLAW, that the Justice Department handed over a copy of PROMIS to him, according to an internal Justice Department document of May 1983 memorializing the delivery that month of a copy of PROMIS to "Dr. Ben Orr." The House Judiciary Committee disclosed the existence of the memorandum in its September 1992 Investigative Report, The INSLAW Affair. According to the memorandum, however, the Justice Department did not give "Dr. Ben Orr" the proprietary version of PROMIS that the Department had sent him over to INSLAW to see, but instead, an earlier, public domain version of PROMIS that the Justice Department could have given to him at the time of the February 1983 visit to INSLAW. The version of PROMIS that the Justice Department professes to have given to Israel was for operation on an earlier line of computers manufactured by the same company that manufactures the VAX, a line of computers that had already been made obsolete by the VAX.

INSLAW representatives remember "Dr. Ben Orr" as about 50-55 years of age in 1983 and as a very short (possibly 5'5") and considerably overweight person with a deeply receding hairline and with an abrasive, take-charge personality. Following the publication of The INSLAW Affair in the fall of 1992, INSLAW wrote to the Israeli Ministry of Justice to obtain the current whereabouts of Dr. Ben Orr. INSLAW was told that Dr. Ben Orr was employed by the Ministry of Justice in 1983 but that he is now retired and practicing law in Jerusalem. A Tel Aviv-based journalist, Pazit Ravina, the Foreign Editor of Davar Newspapers interviewed Dr. Ben Orr at his home in Jerusalem, where he produced for her during the interview a large computer magnetic tape with PROMIS notations on it. Dr. Ben Orr told the journalist that he had gone to INSLAW for a demonstration of PROMIS and had met initially with INSLAW

President William A. Hamilton and then went to another office for a demonstration of PROMIS by other INSLAW employees. Dr. Ben Orr also told the Israeli journalist that the computer tape he retrieved from his home during the interview was the copy of the PROMIS computer software that the Justice Department had given to him in May 1983.

Dr. Ben Orr correctly described certain facts about the February 1983 visit to INSLAW, but he bears no physical resemblance to the Israeli official who actually visited INSLAW. Moreover, Dr. Ben Orr was unable to answer the journalist's questions relating to other difficult-to-forget facts about the February 1983 visit to INSLAW. Moreover, the claimed length of Dr. Ben Orr's assignment in Washington, DC, prior to the visit to INSLAW, is inconsistent with facts disclosed to INSLAW in February 1983 by the Israeli Government visitor.

Ms. Ravina told INSLAW that the Jerusalem-based lawyer is tall by Israeli standards and that she verified his height from his passport as 5'10-1/2". The journalist also described Dr. Ben Orr as very slender, as having a full head of hair, and as having a dignified, scholarly demeanor. The only aspect of Dr. Ben Orr that matched the Israeli official who visited INSLAW was age. Dr. Ben Orr would have been about 55 years old in 1983, according to the Israeli journalist. INSLAW had only one Israeli visitor in 1983, and he appeared then to be in his 50's. That 50-55 year old visitor could not have later grown from 5'5" to 5'10-1/2". Although he could have progressed from being very heavy to being very slender in 10 years time, it is doubtful that he would have been able to grow a full head of hair or to have radically transformed his personality during that decade.

During his interview with the Israeli journalist, Dr. Ben Orr revealed a curious lack of familiarity with certain aspects of the Israeli official's February 1983 visit to INSLAW that William Hamilton had communicated to the journalist in advance. For example, he disclaimed knowing any U.S.-based correspondent for Maariv Newspapers in 1983 and disclaimed having stayed at the home of such an individual in February 1983. Yet, the Israeli official who visited INSLAW told INSLAW in February 1983 that immediately prior to his arrival at INSLAW he had been the house guest in New York City of the Maariv Newspaper correspondent there. In fact, the Israeli visitor to INSLAW telephoned INSLAW from New York City to reschedule the meeting from February 8 to February 9, 1983. Mr. Hamilton has contemporaneous handwritten notes about these facts. As justification for the requested rescheduling, he told INSLAW that he had been delayed in departing from Israel for the United States and, upon his arrival in the United States, had discovered that his host, the Maariv correspondent, had planned a party in honor of his coming to the United States and that he needed to stay in New York City on February 8, 1983 for the planned party in his honor. The real Dr. Ben Orr told the Israeli journalist that he did not fly to the United States from Israel in February 1983 but, rather, that he had spent a year in Washington, DC, from approximately May 1982 to May 1983 on a sabbatical working at the U.S. Justice Department's Office of Legal Policy under a first of its kind "exchange program."

At about the same time of the Israeli journalist's interview of Dr. Ben Orr in Jerusalem, INSLAW received a tip from another Tel Aviv-based journalist that "Dr. Ben Orr" is also a known pseudonym for one of the legendary intelligence operatives of Israel, Rafi Eitan. A national TV news network filmed the process, 10 years after the fact, whereby the INSLAW officials who had met with the Israeli visitor in February 1983 tried to identify him from a

police-style photographic lineup containing the photographs of six Caucasian males, including Rafi Eitan. The two INSLAW officers who each spent hours with the Israeli visitor identified, without any hesitation, photograph #2 as the picture of the Israeli visitor to INSLAW. That was a picture of Rafi Eitan, who was approximately 55 years old in 1983.

According to Ms. Ravina, who recently interviewed in Israel both Rafi Eitan and Dr. Joseph Ben Orr, Rafi Eitan is still very short and very heavy, still has a deeply receding hairline, and still has a personality that could not easily be confused with the dignified, scholarly demeanor of Dr. Ben Orr.

INSLAW tracked down and interviewed several former American colleagues of Dr. Ben Orr and his Israeli "exchange program" successor, Shlomo Gubberman, at the U.S. Justice Department's Office of Legal Policy. These current and former Justice Department officials told INSLAW that no American lawyers went to Israel under the "exchange" program that brought Dr. Ben Orr to Washington, DC, and that the Office of Legal Policy did not have any work to assign to the Israeli Government visitors but, nevertheless, paid each of them U.S. Justice Department salaries financed by U.S. taxpayer funds. They told INSLAW that the exchange program had been set up at a very high level of the U.S. Government without consultation with the Office of Legal Policy. They also told INSLAW that there were official U.S. Justice Department personnel records on the two Israeli Government visitors and that INSLAW should be able to obtain copies of these records through the Freedom of Information Act (FOIA).

INSLAW did submit a FOIA request to the Justice Department about Dr. Ben Orr and his Israeli successor, but was notified by the Justice Department's FOIA specialists that no records can be found. Four of INSLAW's confidential informants, whose backgrounds and claims are summarized in Exhibit B to the INSLAW rebuttal of the Bua Report, have stated that the Justice Department's Office of Security has concealed in Sensitive Compartmented Information Facilities (SCIF's), and/or destroyed sensitive documents relating to the use of PROMIS in intelligence initiatives (witnesses #3, #7, #8 and #11). The disappearance of all records of Dr. Ben Orr's year-long assignment at the U.S. Justice Department, particularly in the context of the attempt by the Justice Department and Rafi Eitan to deceive INSLAW into believing that it was Dr. Ben Orr who came to INSLAW for the demonstration of the VAX version of PROMIS, gives rise to the concern that these records have been similarly concealed or destroyed by the Justice Department's Office of Security. During a December 16, 1993 meeting with INSLAW at the Justice Department, Assistant Attorney General Dwyer stated that the Justice Department Personnel Office's repeated search attempts for the records of Dr. Ben Orr had failed to produce any trace of such records. Additionally, Mr. Dwyer, in response to a question from INSLAW, stated that he does not have a Sensitive Compartmented Information (SCI) security clearance and that he had concluded that it is unnecessary for him to obtain such a clearance. Such a clearance, however, is a prerequisite to searching any SCI document repository.

INSLAW's hypothesis is that the Justice Department delivered both the VAX version of PROMIS and the earlier, public domain version of PROMIS to representatives of the Government of Israel in May 1983 and that Dr. Ben Orr's acquisition and puzzling retention of what is probably the earlier, public domain version of PROMIS may have been intended to serve as a cover story for the illegal dissemination to Israeli intelligence in May 1983 of the

proprietary VAX version of PROMIS from INSLAW. Under this hypothesis, the delay until mid-April 1983 in the Justice Department's acquisition of the VAX version explains why both the VAX version and the earlier, obsolete public domain version of PROMIS were delivered to the Government of Israel only in May 1983.

(b) The Alleged Role of the Late Robert Maxwell in the Dissemination of PROMIS On Behalf of Israeli Intelligence

Another indication of the Justice Department dissemination of the proprietary PROMIS to Israeli intelligence relates to the role of the late British publisher Robert Maxwell, who died in November 1991. In a book published earlier that year, The Sampson Option, Seymour Hersh alleges that Maxwell had been a long-time intelligence operative for Israel. According to Ari Ben Menashe, a former Israeli intelligence officer, Maxwell also assisted Israeli intelligence and Rafi Eitan in the dissemination of the proprietary PROMIS software to the intelligence and law enforcement agencies of other governments, particularly in Eastern Europe, the former Soviet Union, the United Kingdom and certain countries in Latin America, and to international commercial banks.

In August 1985, Maxwell incorporated in the Commonwealth of Virginia a tiny national defense publishing house, Pergamon-Brassey's International Defense Publishers of McLean, Virginia.^{1/} In 1987, Pergamon-Brassey's hired two senior computer systems executives who resigned at the same time from the Meese Justice Department's Justice Data Center. The proprietary IBM mainframe version of PROMIS had been operating at the Justice Data Center since the early 1980's. Maxwell's six-employee Pergamon-Brassey's was chaired by former U.S. Senator John Tower and included on its board of directors a recently retired four-star U.S. Army General, who had headed the Southern Command in Panama during the Reagan Presidency, and a retired British Major General. Its president was a recently retired U.S. Air Force Colonel.

When George Vaveris resigned his estimated \$90,000 a year Senior Executive Service position as Director of the Justice Data Center to become Vice President for Technical Services at the tiny Pergamon-Brassey's, he reportedly confided to a colleague at the Justice Department that his compensation at Pergamon-Brassey's would be in excess of \$200,000 a year.

(c) An FBI Foreign Counterintelligence Investigation of Robert Maxwell for the Sale of Software in New Mexico in 1984

On January 10, 1994, INSLAW received 20 pages of FBI investigative documents in response to a FOIA request for documents relating to the "involvement of the late Robert Maxwell in the dissemination, marketing or sale of computer software systems, including but not limited to the PROMIS computer software product, between 1983 and 1992."

^{1/} Three months later on November 15, 1985, the General Counsel of the Justice Management Division sent a letter to INSLAW demanding that the company acquiesce to the Justice Department's assertion of a right to "unrestricted use of the software obtained under this contract for any federal projects, including projects that may be financed or conducted by instrumentalities or agents of the federal government such as its Independent Contractors."

Eighteen of the twenty pages relate to Robert Maxwell, doing business as Pergamon International, in New Mexico in approximately June 1984. The FBI has heavily redacted these pages and ascribed most of the redactions to national security, i.e., Title 5, United States Code, Section 552(b)(1), "specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy."

The FBI office in Albuquerque, New Mexico, is listed as the "office of origin" of the investigation, and the investigation case number "AQ [Albuquerque] 105 [Foreign Counter-Intelligence] C-3262" indicates that the FBI conducted a foreign counterintelligence investigation of Robert Maxwell and his corporation, Pergamon International, relating to the "dissemination, marketing or sale of computer software systems, including but not limited to the PROMIS computer software product" in New Mexico during 1984.

Why would the FBI conduct a foreign counterintelligence investigation of Robert Maxwell for selling computer software in New Mexico in 1984? It is reasonable to infer that the FBI office in Albuquerque opened a foreign counterintelligence investigation of Maxwell and Pergamon International because Maxwell sold PROMIS to one or more U.S. defense installations in New Mexico and because the FBI may have been concerned that a foreign nation intended to use the PROMIS software as an electronic Trojan horse for penetrating the computerized database(s) of the targeted defense installation(s).

Officials of the U.S. Government have, from time-to-time, invoked national security to conceal embarrassing, improper or criminal activities. The heavy redactions of these Maxwell documents could be an example of this problem. The Justice Department's own role in the malfeasance against INSLAW could thus have been the reason for the national security classification of some of the materials in these 18 pages.

Additional support for this concern can be found in FBI notations on two of the 18 pages that indicate that those two pages had been fully declassified at one time, i.e., on December 13, 1992, but partially reclassified shortly before the pages were released to INSLAW, i.e., on December 21, 1993. Moreover, the reclassification occurred shortly after the INSLAW FOIA request had been taken away from the FBI FOIA specialist to whom it had been assigned, Ms. Karen Browning. On November 19, 1993, INSLAW learned from Ms. Browning that the INSLAW FOIA had been taken away from her and placed on a section chief's desk. INSLAW subsequently learned that another FBI FOIA specialist, a Ms. Sue Knopka, who is apparently a section chief, had taken over the INSLAW FOIA request. Ms. Knopka told INSLAW on December 9, 1993 that she had completed her work on the INSLAW FOIA and that her work was then being reviewed by others. Twelve days later, the FBI reclassified portions of those two pages and redacted the newly reclassified portions.

Raising the bar at the 11th hour on INSLAW's access to the Maxwell software sale documents is contrary to the new FOIA policy promulgated by Attorney General Janet Reno on October 4, 1993. In her Memorandum for Heads of Departments and Agencies, the Attorney General announced that she was rescinding the Justice Department's guidelines of 1981 on the legal defense of U.S. Government actions in FOIA litigation and that the Department will henceforth "apply a presumption of disclosure" in determining whether or not to provide legal defense for a U.S. Government non-disclosure decision.

Based on the aforementioned discussion, INSLAW believes the Justice Department should immediately reinstate the December 13, 1992 declassifications of the two pages at issue, and, in addition, the Justice Department should, at a minimum, immediately release to INSLAW any of the following information contained in the 18 pages:

- The name(s) of the entity or entities to whom Maxwell "disseminated, marketed or sold" computer software products in New Mexico;
- The date or dates of the sale(s);
- The name(s) of the buyer(s) at the entity or entities that purchased or acquired the software products;
- The dollar amount(s) of the software product sale(s);
- The name(s) of the person(s) at Pergamon International involved in the sale(s);
- The application domain for the software products sold or disseminated in New Mexico;
- The name of the vendor(s) that developed and/or provided software support services for the software product(s) in question; and
- The name(s) for the software product(s) sold or distributed by Robert Maxwell in New Mexico.

(d) The Apparent Collusion Between the U.S. Justice Department and Israeli Intelligence in an Effort in 1986 To Obstruct Justice in the INSLAW Case

In June 1986, INSLAW filed a lawsuit against the Justice Department for stealing the proprietary version of PROMIS in April 1983. Shortly thereafter, Attorney General Meese, Deputy Attorney General Jensen, Earl Brian, and Rafi Eitan each surfaced in what appears to have been a combined effort by the Governments of Israel and the United States to prevent INSLAW from seeking redress in the courts.

Jensen's was the first name to surface in connection with an apparent effort to prevent INSLAW from fully litigating its claims. In May 1986, the lead counsel on INSLAW's lawsuit against the Justice Department drafted a complaint containing detailed allegations about the role of Deputy Attorney General D. Lowell Jensen in the Justice Department's malfeasance against INSLAW. Senior partners at the law firm immediately expressed alarm about the draft complaint and decided to assign two other attorneys in the firm to rewrite the complaint. The lead counsel then showed INSLAW the completely revised complaint. Every reference to Jensen, including a 23-paragraph section on Jensen's personal involvement, was deleted from the new draft. The lead counsel later acquiesced to INSLAW's demand, however, that the final version of the complaint had at least to make a reference to Jensen's pivotal role.

The law firm fired INSLAW's lead counsel from his partnership in October 1986, just four months after the filing of the complaint containing the reference to Jensen. At the time of the firing, the lead counsel told INSLAW that he believed that his firing had been triggered by his naming of Jensen in the complaint. The lead counsel also told INSLAW, at the time of his firing, that Leonard Garment, the Senior Partner at the firm who had represented Edwin Meese in the 1984 Independent Counsel investigation of Meese's undisclosed business ties to Earl Brian, had instigated the firing. According to the lead counsel, the firm's Managing Partner had disclosed this fact to him. Bill Farr, then a reporter for the Los Angeles Times, told INSLAW that Associate Attorney General Steve Trott had told Farr in October 1986 that the Justice Department was furious at INSLAW for publicizing its accusations against Jensen and for allegedly seeking to block Jensen's confirmation in July 1986 as a federal district judge. Farr also told INSLAW that Trott had earlier told him that INSLAW's allegations were "not without merit."

Not long after the firing of the lead counsel, the law firm told INSLAW that it had suddenly discovered, after almost a year of representing INSLAW, fatal deficiencies in INSLAW's technical and accounting evidence for its PROMIS proprietary rights and license fee claims. The law firm then gave INSLAW a letter demanding immediate written authority to seek a negotiated settlement with the Justice Department premised on an immediate dismissal by INSLAW of its proprietary rights and license fee claims.

Attorney General Meese's apparent role in the October 1986 firing of the lead counsel was not disclosed until the summer of 1987, in an answer to an interrogatory submitted by INSLAW's new litigation counsel. The Attorney General stated that he had discussed the INSLAW case in October 1986 with Leonard Garment and, furthermore, that Garment had told the Attorney General about a separate communication Garment had had that month on the INSLAW case with Deputy Attorney General Arnold Burns. Burns had taken Jensen's place in July 1986 when Jensen left the Justice Department to become a federal district judge.

For his part, Garment responded to questions from the press by claiming that he had no recollection of any discussion of the INSLAW case with Deputy Attorney General Arnold Burns and, moreover, that Attorney General Meese was confusing the INSLAW case with a discussion that Garment and the Attorney General had had in October 1986 about Israel. According to William Hamilton's contemporaneous, handwritten notes from early 1988, a journalist who interviewed Garment quoted Garment as claiming that his October 1986 communications with Meese were really about a "back channel" communication with Israel about the Pollard case, which Garment described to the journalist as a national security problem affecting both Israel and the U.S. Justice Department. Garment failed to respond to a written request from INSLAW's new litigation counsel for an accounting of these previously undisclosed communications about INSLAW with the Justice Department.

That Garment's October 1986 communications with the Justice Department were, at least in part, about INSLAW was later confirmed by former Deputy Attorney General Arnold Burns in an interview with the Senate Permanent Investigations Subcommittee. According to the September 1989 Staff Report by that subcommittee, Burns stated that he and Garment had had a social luncheon on October 6, 1986 and that Burns had communicated his displeasure about the litigation strategy that INSLAW's lead counsel had been pursuing and had indicated his

willingness to entertain a settlement overture from the law firm. The staff investigation also found a reference to the social luncheon on Garment's office calendar. According to the staff investigation, the decision to fire INSLAW's lead counsel occurred the week following the social luncheon at a meeting of the firm's Senior Policy Committee at which Garment was present.

The first hint of Rafi Eitan's apparent role in the firing of INSLAW's lead counsel in October 1986 can be inferred from Leonard Garment's statements to the press following Attorney General Meese's written response to the interrogatory. By way of background, in late 1985, the Israeli Ambassador to the United States had summoned Garment to the embassy for emergency consultations about how to control the damage from the arrest of Jonathan Pollard, a civilian intelligence analyst at the Navy's Anti-Terrorism Center, for espionage against the United States on behalf of Rafi Eitan and Israeli intelligence.^{2/} In June 1986, the month when INSLAW filed its lawsuit, Garment had flown to Israel for further consultations about the Rafi Eitan-Jonathan Pollard national security scandal.^{3/} Rafi Eitan's pivotal role in both the theft of PROMIS and the Pollard espionage could explain why Attorney General Meese said that his October 1986 communications with Garment were about INSLAW, while Garment insisted those same communications were really about a back channel communication he had had with Israel on the Pollard espionage case.

The second allusion to Rafi Eitan's involvement in the firing of INSLAW's lead counsel and the first and only reference to Earl Brian's alleged involvement is contained in Ari Ben Menashe's book, Profits of War. According to the author, Rafi Eitan provided \$600,000 from a slush fund, that was jointly controlled by U.S. and Israeli intelligence, in order to get INSLAW's lead counsel fired so that INSLAW could no longer prosecute its PROMIS proprietary rights and license fee claims against the U.S. Justice Department. Rafi Eitan allegedly wired the money to Earl Brian's Hadron for transfer to Leonard Garment at the law firm then serving as INSLAW's litigation counsel.

INSLAW obtained documents in discovery that revealed that the law firm had negotiated a financial settlement with INSLAW's lead counsel under which the fired lead counsel would receive payments over a five-year period exceeding a half-million dollars. The terms of the settlement required silence about this payment.

There is another Justice Department connection to INSLAW and Rafi Eitan. Mark Richard is the career Deputy Assistant Attorney General in the Criminal Division with responsibility for anti-terrorism, intelligence and national security matters and for the Office of Special Investigations (OSI), the unit that informants claim is the Justice Department's own covert intelligence service. Mark Richard allegedly knows the whole story about the reported role of Assistant Attorney General D. Lowell Jensen in the malfeasance against INSLAW in the winter and spring of 1983. This would presumably include the covert U.S. Justice Department dissemination of the proprietary VAX computer version of PROMIS to Rafi Eitan and Israeli intelligence in May 1983. In 1986, the U.S. Justice Department granted immunity from

^{2/} Wolf Blitzer, Territory of Lies, the Exclusive Story of Jonathan Jay Pollard: The American Who Spied on His Country for Israel and How He Was Betrayed, p. 221.

^{3/} Id. at p. 222.

prosecution to Rafi Eitan in exchange for his purported cooperation in the U.S. Justice Department's criminal investigation of the Pollard espionage case. Mark Richard went to Israel in 1986 as part of the U.S. Government delegation to interview Rafi Eitan and other Israeli Government officials involved with Pollard's espionage against the United States.^{4/}

INSLAW submitted a written complaint to the Criminal Division's Public Integrity Section in 1988 seeking the appointment of an Independent Counsel to investigate Meese, Jensen, Brian, and Garment. INSLAW did not then know about Rafi Eitan. The Public Integrity Section declined to interview Mr. and Mrs. Hamilton about the complaint but, according to a statement to the press by Garment in the winter of 1988, took the deposition of Leonard Garment and cleared him of any wrongdoing in the INSLAW affair. The Public Integrity Section and the Office of Special Investigations (OSI), which is allegedly the Justice Department's own covert intelligence agency, were located in the same secure office facility at the time.

The Bua Report dismissed Ben Menashe as a credible witness, alleging that he had in effect privately and informally acknowledged to the Bua investigators that he had contrived the allegations he had made about Earl Brian's role in the sale of INSLAW's PROMIS software. Ben Menashe, however, denies that he ever made such statements to the Bua investigators and pointed out to INSLAW that such statements would conflict with the various affidavits he has furnished to INSLAW and which INSLAW has submitted in open court, and with the statements he made in his book, Profits of War. The only transcript of what Ben Menashe did say to the Bua investigators is presumably the transcript of his formal, sworn testimony before the Bua federal grand jury in Chicago. The Justice Department deleted all reference to this actual sworn testimony from the Bua Report, ascribing the deletions to the requirements of grand jury secrecy laws.

During the December 16, 1993 meeting with Assistant Associate Attorney General Dwyer, INSLAW disclosed the existence of two additional extremely sensitive sources, whose existence INSLAW had not previously disclosed to the Justice Department. Neither of these witnesses knows Ben Menashe. Each has independently corroborated key elements of Ben Menashe's detailed claims about the role of Israeli intelligence in the INSLAW scandal. INSLAW also presented a document to Mr. Dwyer, authored by a self-evidently credible source, outlining how the Justice Department can proceed to obtain sworn testimony from one of these two additional sensitive sources.

3. The Alleged Distribution of the VAX Version of PROMIS to the World Bank and the International Monetary Fund

Immediately after acquiring the VAX version of PROMIS from INSLAW in April 1983, the Justice Department apparently secretly and illegally disseminated a copy of the VAX version to the World Bank and the International Monetary Fund. In February 1991, Danny Casolaro, an investigative journalist, introduced INSLAW to two former computer systems specialists from

^{4/} According to an article in the Washington Times, dated December 29, 1993, Mark Richard is currently the leading advocate within the U.S. Government for the early release of Jonathan Pollard from prison, and Mark Richard is also recommending that the U.S. Justice Department officially close criminal investigations against three other Israeli nationals believed to have colluded with Jonathan Pollard in espionage against the United States.

the World Bank's Headquarters in Washington, DC. One of the two still had his notebook containing handwritten diary entries from his years at the World Bank's computer center. According to these individuals, the World Bank acquired the VAX version of PROMIS in approximately June 1983 for use in tracking international message flows between the World Bank and its member governments, on the one hand, and between the International Monetary Fund and the international banks, on the other hand. Neither of these two former World Bank computer specialists knew how or from whom the two international financial institutions had acquired the VAX version of PROMIS. INSLAW initially disregarded this lead because the tracking of international message flows was outside the traditional law department application domain for PROMIS. INSLAW reevaluated the lead, however, when a current U.S. Government employee, who knew nothing about the information INSLAW had earlier received from the two former World Bank employees, told INSLAW years later that the Justice Department had disseminated the proprietary VAX version of PROMIS to the World Bank in June 1983 as part of a U.S. intelligence initiative. According to this source, D. Lowell Jensen, then Assistant Attorney General for the Criminal Division, was personally involved in the dissemination to the World Bank, as were various officials of the Justice Department's Office of Security and the CIA. In the June 1993 rebuttal to the report by Justice Department Special Counsel Nicholas J. Bua, INSLAW summarized the backgrounds and claims of three of INSLAW's confidential witnesses about the spring 1983 dissemination to the two international financial institutions.

Many of INSLAW's confidential informants are fearful of reprisals from the Justice Department and are, therefore, unwilling to submit to interviews by Justice Department officials. The importance of developing the World Bank leads is, however, obvious. For example, the Bua Report claims, in contradiction to the findings of two sitting federal judges, that there was no evidence of fraud by Justice Department officials in connection with the April 1983 contract modification. The Bua Report also asserts that there is no credible evidence that Earl Brian or Hadron, Inc. was ever involved with the PROMIS software.

In light of the fact that the World Bank and the International Monetary Fund present more accessible targets for obtaining such proof than U.S. and foreign intelligence agencies, INSLAW recently contacted Anthony Kimery, a veteran investigative journalist from the American Banker Newsletters. Kimery has investigated the U.S. intelligence community's penetrations of other financial institutions. Within two days of the initial meeting, Kimery told INSLAW that he had been able to confirm from his own sources at the World Bank and the International Monetary Fund that the Justice Department had disseminated the VAX version of PROMIS to these two international financial institutions as part of a U.S. intelligence community initiative and that this PROMIS Trojan horse initiative was spearheaded by the National Security Agency. Because of the NSA's alleged involvement, any contemporaneous Justice Department record of the dissemination, such as that which is alluded to in the narrative about witness #2 in Exhibit B of INSLAW's rebuttal to the Bua Report, is likely to be highly classified and, consequently, stored in one of the Office of Security's Sensitive Compartmented Information Facilities (SCIF's). Mr. Kimery has recently published a series of articles in the American Banker's International Banking Regulator Newsletter regarding his investigation. Copies of two of these articles are included as Exhibits C and D to this addendum.

4. The Alleged Sale of the VAX Version of PROMIS to Jordanian Military Intelligence

In December 1981, Earl Brian's Hadron, Inc. acquired Telcom International as a wholly-owned subsidiary. Billy R. Morris, the President of Telcom International, had been employed at the CIA until 1977, according to one of Hadron's annual reports. According to a former Hadron executive, Telcom International was staffed entirely or almost entirely by former CIA employees. Billy R. Morris was a close friend of King Hussein of Jordan, and "Hadron did not buy Telcom International for its telecommunications expertise," according to this former Hadron executive.

At the time of its acquisition by Hadron, Telcom International had an office in Amman, Jordan, according to Hadron's annual reports.

The fact that a Hadron subsidiary had an office in Amman, Jordan, in the early 1980's and the alleged closeness of the subsidiary's President to the King of Jordan add to the plausibility of the claim by Ari Ben Menashe that shortly after Rafi Eitan acquired the VAX version of PROMIS, he arranged for Earl Brian to sell a copy of it to the military intelligence agency of Jordan, in secret support of an Israeli communications intelligence initiative. The Israeli objective was allegedly to gain secret electronic access to Jordanian military intelligence dossiers on Palestinians.

5. The Alleged Sale of PROMIS to Egyptian Military Intelligence

Hadron's Telcom International subsidiary also opened an office in Cairo, Egypt in April 1982, according to a Hadron annual report. This fact, when viewed in combination with the staffing of the subsidiary with former CIA employees, could explain the claim, made to INSLAW by its trusted source in January 1991, that "Lindsey" packaged a derivative version of the U.S. intelligence community's PROMIS for Earl Brian to sell to foreign governments, including a sale to Egypt's military intelligence agency, through what looks like "a CIA holding company."

III. BUA'S INVESTIGATION OF POST-TRIAL LEADS ABOUT A MORE WIDELY-RAMIFIED CONSPIRACY INVOLVING EARL BRIAN AND THE INTELLIGENCE AND LAW ENFORCEMENT AGENCIES OF THE UNITED STATES AND FOREIGN GOVERNMENTS

C.3. Office of Special Investigations (OSI) Allegedly a Front for Justice Department's Own Covert Intelligence Agency

According to current and former Justice Department employees, the Justice Department has its own covert intelligence agency that operates out of the Criminal Division's Office of Special Investigations (OSI); its intelligence agents have virtually nothing to do with OSI's publicly-declared mission of locating and deporting Nazi war criminals. OSI, in turn, has its own proprietary company that allegedly employs scores of agents of diverse nationalities, as well as individuals who appear to be holding other jobs in U.S. Government departments and agencies, and in the U.S. Armed Forces. As explained in the next two sections, C.4 and C.5, OSI has allegedly participated in the illegal trafficking in PROMIS software and in the murder of the investigative journalist Danny Casolaro. Casolaro was allegedly murdered in order to insure his silence about the Justice Department's role in the INSLAW scandal.

INSLAW's problems with the Justice Department were engineered by D. Lowell Jensen in the spring of 1983 through key Criminal Division political and contracting aides, in order to give the U.S. Government's PROMIS software business to "friends," according to statements made to INSLAW in May 1988 by the then-Chief Investigator of the Senate Judiciary Committee and attributed by him to a senior Justice Department career official. As documented in INSLAW's rebuttal to the Bua Report, other current and former Justice Department officials have made substantially similar claims. Moreover, when the Justice Department's PROMIS Contracting Officer acquired physical custody of the VAX version of PROMIS and then notified INSLAW that he had immediately thereafter decided to stop paying INSLAW's computer time-sharing invoices as submitted, he showed D. Lowell Jensen as the number one "cc." When INSLAW deposed the contracting officer in 1987, he could offer no explanation for this written notice to Jensen.

According to the former Chief Investigator of the Senate Judiciary Committee, several other senior career Criminal Division officials knew all about the alleged Jensen-led effort to misappropriate the PROMIS software from INSLAW in order "to give the business to friends." Moreover, two of these witnesses were described as being "pretty upset" about what happened but unwilling to reveal what they knew unless compelled to answer questions under oath from a skilled interrogator. The two senior career officials who were described to INSLAW as pretty upset were Mark Richard, a Deputy Assistant Attorney General whose responsibilities, in 1983, encompassed terrorism and intelligence issues at the Justice Department, as well as the OSI, and a subordinate, Phillip White, the Director of the Office of International Affairs. White's office was responsible for arranging the extradition from other countries of alleged terrorists and other accused persons. Neither Mark Richard nor Phillip White has ever been interrogated under oath on this question. The Bua investigation simply "interviewed" them. The Bua investigation did interrogate the former Chief Investigator before a federal grand jury but, without explanation, did not compel him to identify his trusted senior Justice Department career source.

Jensen was a long-time friend of Edwin Meese from the 1960's when Jensen and Meese served together as assistant district attorneys in the Alameda County, California, District Attorney's Office. Several current and former Justice Department officials, each fearful of reprisal, have told INSLAW that Jensen engineered the INSLAW scandal from his position as head of the Criminal Division. There is circumstantial evidence that is consistent with these claims. There was also evidence, contemporaneous with the 1983 misappropriation of PROMIS, that Edwin Meese was working from the White House with Jensen on questionable plans for the use of PROMIS.

For example, in approximately June 1983, a whistleblower from the Justice Management Division warned the staff of Senator Max Baucus that Meese would become Attorney General and that Meese and Jensen would thereafter award "a massive sweetheart contract to their friends" to install PROMIS in every litigative office of the Justice Department. Moreover, the tape recorded conversations of the Canadian John Belton's telephone interviews in 1991 and 1992 with former Hadron executives also contain a reference to the personal involvement of Edwin Meese and Earl Brian in an apparent sale of PROMIS to Canada in 1983. Belton documented these conversations in a memorandum that is Exhibit A to INSLAW's July 11, 1993 rebuttal. Meese was Counsellor to President Reagan in 1983.

Brian had served under Meese in 1981 and 1982 as the unpaid Chairman of a White House Task Force on Health Care Cost Reduction, and Mrs. Meese had purchased shares during these years in two Brian-controlled companies, according to the report of the 1984 Independent Counsel's investigation of Meese.

An independent investigation of the INSLAW affair might reasonably seek evidence of communications in the winter and spring of 1983 between Meese, Jensen and Brian and possibly Rafi Eitan as well. Meese's White House telephone logs for most of 1983 are missing, however, according to the records of the Independent Counsel's 1984 investigation of Meese. The law firm that defended Meese in the 1984 Independent Counsel investigation shredded 40 bankers boxes of Meese's White House documents, according to the statements INSLAW took from two former employees of the law firm. The Justice Department has never interviewed either of these witnesses. D. Lowell Jensen took his telephone logs and appointment calendars with him when he left the Justice Department in the summer of 1986 to become a U.S. District Judge in San Francisco, according to his statements to INSLAW when INSLAW took his deposition in 1987.

The Justice Department's PROMIS Project Manager testified under oath in the House Judiciary Committee's investigation that Jensen had pre-approved virtually every decision he made in regard to INSLAW's PROMIS Implementation Contract. Jensen as Assistant Attorney General for the Criminal Division could reasonably have had contact with Rafi Eitan on the problem of international terrorism, while it is not reasonable for the PROMIS Project Manager to have had, on his own, business dealings with Rafi Eitan. If OSI is, in fact, the Justice Department's own covert intelligence service, Jensen could have used it in the "trickery, fraud and deceit" against INSLAW in the winter and spring of 1983. That could explain why Mark Richard, to whom OSI reported, reportedly knew the whole story and why Philip White, a peer of the OSI Director who also reported to Mark Richard, also reportedly knew the whole story.

President Reagan won the 1980 election in part because of the perceived failure of the Carter Administration to handle effectively the problem of Middle East terrorism. The

preoccupation of the Reagan Administration with Middle East terrorism is evidenced by the covert sales of arms to Iran, i.e., the Iran part of the Iran/Contra scandal, and by the fact that those sales were conducted under the auspices of Oliver North and his Terrorism Incident Working Group. The role of Israeli intelligence in these matters has also been documented in the recently published Report of the Independent Counsel on Iran/Contra. Similarly, when Meese became Attorney General in 1985, he and Jensen set up the Justice Command Center to help the Attorney General of the United States coordinate the Justice Department's responses to acts of terrorism against U.S. citizens anywhere in the world. As documented in Exhibit B to INSLAW's rebuttal to the Bua Report (witnesses #4 and #8), the Justice Command Center is alleged to be linked to the Justice Department's malfeasance against INSLAW. The Justice Command Center has on-line access to classified databases of the U.S. intelligence and law enforcement agencies. According to one Justice Department informant, OSI has a secure office next to the Justice Command Center.

There is evidence of Earl Brian's early involvement with the Reagan White House on national security issues. For example, INSLAW recently obtained from the Ronald Reagan Presidential Library a copy of a March 10, 1981 document authored by Meese's White House Deputy and directed to Richard Allen, then the National Security Advisor to the President, asking the National Security Advisor to arrange meetings between Earl Brian and a Toronto-based financier, on the one hand, and "ranking people in [the] United States Government," on the other hand. Moreover, a former Hadron executive recently told INSLAW about being with Earl Brian at Hadron in late 1981 or early 1982 when Earl Brian received a telephone call from President Ronald Reagan about a national security matter. Brian's Hadron had offices in two Middle East capitals, Amman, Jordan, and Cairo, Egypt, in the early 1980's that could have enabled Earl Brian to be helpful to Meese and Jensen on an initiative in the Middle East.

There is, therefore, adequate reason for Edwin Meese, as one of the political confidants to the President, to have become involved in an anti-terrorist initiative with Israel in 1983 and an adequate foundation for believing that Meese might have enlisted the help of his two close friends from California, D. Lowell Jensen at the Justice Department's Criminal Division and Earl Brian at Hadron, in implementing such an initiative. The apparent existence in the Jensen-led Criminal Division of a covert intelligence service unburdened by Congressional oversight could have provided the necessary mechanism.

As noted in the following section, INSLAW received from an anonymous source a Justice Department document that, based on information and belief, indicates that the Criminal Division's OSI has engaged in illegal trafficking in the PROMIS software.

The following excerpt from the Bua Report, purporting to describe the focus of the investigation by the journalist, Danny Casolaro, into the Justice Department's malfeasance against INSLAW may have some bearing on the role of OSI as a secret Justice Department covert intelligence agency:

Casolaro was reportedly investigating suspected links between the INSLAW controversy and what Casolaro called "The Octopus," supposedly a secret intelligence organization with links to international arms dealing, covert operations, and, perhaps, organized crime.

4. OSI has Over 100 Commercial Organizations That Serve As Cutouts For its Covert Operations, Including its Illegal Trafficking in INSLAW's PROMIS Software

INSLAW received anonymously in the mail a 27-page computer printout from the Criminal Division of the Justice Department. This document, which lists over 100 companies, had the following typewritten note affixed to the first page when INSLAW received it:

The enclosed is from the Dept. of Justice, Criminal Division. Perhaps there are a few of these who have benefited from PROMIS w/o your knowledge or/and w/o you getting remuneration.

Although the computer printout bears the heading Criminal Division Vendor List, it is not a list of all of the companies that do business with the Criminal Division, according to two of INSLAW's usually reliable informants, but is instead a list of companies that serve as "cutouts" for the Justice Department's own covert intelligence service, i.e., for the Criminal Division's Office of Special Investigations (OSI). A preliminary analysis of this list by INSLAW and others has produced information that is consistent with these allegations.

There are specific individuals, addresses and telephone numbers identified on the list for many of the entries. An independent investigation, supported by the authority of a federal grand jury, should, therefore, be able to determine whether, in fact, the 100-plus organizations on this Justice Department computer printout have been assisting the Justice Department's own covert intelligence service and whether any of the same 100-plus organizations have supported the U.S. Justice Department's illegal dissemination of PROMIS.

III. BUA'S INVESTIGATION OF POST-TRIAL LEADS ABOUT A MORE WIDELY-RAMIFIED CONSPIRACY INVOLVING EARL BRIAN AND THE INTELLIGENCE AND LAW ENFORCEMENT AGENCIES OF THE UNITED STATES AND FOREIGN GOVERNMENTS

E.3. According to Written Statements, Agents of the Justice Department Murdered Journalist Danny Casolaro In Order to Insure His Silence

The journalist Danny Casolaro was found dead in his hotel room in Martinsburg, West Virginia, in August 1991. As documented in INSLAW's Analysis and Rebuttal of the Bua Report, Casolaro had gone to Martinsburg for a final, follow-up meeting with sources on INSLAW whom Casolaro described to an associate as a relative of Ms. Barbara Videnieks of Senator Robert Byrd's office, plus one other person from Senator Byrd's office. Casolaro had told at least five confidants, during the final week of his life, something that he had not previously told any of them during his year-long, full-time investigation: that he had finally broken the INSLAW case after a year-long, full-time investigation.

Casolaro met William R. Turner in the parking lot of the Sheraton Hotel in Martinsburg, West Virginia the day before he died, to take delivery from Turner of some sensitive documents on the INSLAW affair that Turner had been keeping for Casolaro in the safe in his home, 20 miles from Martinsburg in Winchester, Virginia. Casolaro intended to show the documents to his sources later that evening and to obtain other INSLAW documents from his sources, according to Turner.

Casolaro told Turner that the Friday evening meeting in Martinsburg had been arranged by Joseph Cuellar, a U.S. Army Special Forces covert intelligence officer, according to Turner.

As documented in INSLAW's Analysis and Rebuttal of the Bua Report, Cuellar had a purportedly chance encounter with Casolaro in a pub in the vicinity of Casolaro's home less than one month before Casolaro died and, during that encounter, described himself to Casolaro as one of Peter Videnieks' closest friends. Peter Videnieks is the husband of Mrs. Barbara Videnieks, Chief of Staff to Senator Robert Byrd of West Virginia, and served as the Justice Department's Contracting Officer on the PROMIS Implementation Contract. According to Casolaro's statements to Mr. and Mrs. Hamilton and others, Cuellar also offered to Casolaro to broker a meeting between Peter Videnieks and Casolaro, and told Casolaro that Videnieks had agreed to meet.^{5/}

Four months after Casolaro's death, an individual who has stated under oath that he has served as an operative on national security matters for various agencies of the U.S. Government

^{5/} Lynn Knowles was with Casolaro the evening of the purportedly chance encounter with Cuellar and was present during subsequent meetings between Casolaro and Cuellar during the final weeks of Casolaro's life. Shortly after Casolaro died, Lynn Knowles telephoned Cuellar. As documented in INSLAW's Analysis and Rebuttal of the Bua Report (pp. 64, 65), Cuellar gave the following warning to Knowles, in words or substance:

What Danny Casolaro was investigating is a business. If you don't want to end up like Danny or like the journalist who died a horrific death in Guatemala, you'll stay out of this. Anyone who asks too many questions will end up dead.

including the FBI and the CIA, reportedly transmitted by fax to a San Francisco-based investigative journalist, typewritten answers, purportedly from a senior CIA official, to questions posed by the journalist. Among the questions posed by the journalist, George Williamson, were several relating to Danny Casolaro and the PROMIS software. The following are the Casolaro and PROMIS excerpts from the typewritten questions and answers allegedly transmitted by fax in December 1991 to the journalist, George Williamson, by Dr. Frederick Von Bodungen, the self-described Justice Department national security operative:

Q. Do you have any information for George Williamson yet regarding the Danny Casolaro matter?

A. Yes. Casolaro appears to have been working as a free lance writer at the time of his death and was gathering material for a book. He was investigating the INSLAW case. He was on the trail of information that could have made the whole matter public and led to the exposure of the Justice Department and their involvement in the matter. Apparently he was very close to obtaining that information.

We do not agree with the consensus of opinion among the reporters who looked into the matter, that Casolaro committed suicide. Casolaro was murdered by agents of the Justice Department to insure his silence. The entire matter was handled internally by Justice, and our agency was not involved.

Q. Is the CIA currently using the PROMIS software?

A. Yes.

Q. Did the agency buy it?

A. No. It was provided to the agency by the Justice Department, and no request for payment was ever made.

In January 1992, Dr. Von Bodungen reportedly faxed to Williamson his handwritten annotations to a published story about Casolaro's death. The last annotation reads: "As you know, Casolaro was killed by agents of [the] Justice Department."

As is explained in Section III.C.3, the Justice Department allegedly has its own covert intelligence agents who operate out of the Criminal Division's Office of Special Investigations (OSI) and whose covert intelligence work has virtually nothing to do with OSI's publicly declared mission of locating and deporting Nazi war criminals.

Dr. Von Bodungen has reportedly acted as a contractor on national security matters with both the CIA and the FBI since the early 1970's. (See a deposition of Dr. Von Bodungen taken in connection with a civil lawsuit brought by Dr. Von Bodungen against the Bank of America National Trust and Savings Association, Case #C-88-1869-WHO, in the U.S. District Court for the Northern District of California and, reportedly, testimony of several FBI agents in a federal criminal prosecution in 1988 in Phoenix, Arizona, The United States v. Horst Joetzki and Lawrence Gisner, Case # C-88-00075-002).

The publication that contains the handwritten notes is a 16-page newsletter published by Phoenix-based investigative journalist Don Devereux, dated September 20, 1991 and titled "On the Death of Dan Casolaro."

According to the newsletter, Casolaro had telephoned Devereux a few weeks before his death and "sounded very much like a reporter on the edge of something big" as he asked Devereux detailed questions about large-scale illegal trafficking in gold and platinum involving elements of the U.S. intelligence community and organized crime.

Devereux had investigated two homicides reportedly connected to illegally trafficking in precious metals and had discovered common links to a particular financial institution and to a particular precious metal reclamation company, as well as apparent links to both organized crime and elements of the U.S. intelligence community. According to Devereux's newsletter, Casolaro believed that some of the same individuals who had assisted the Justice Department in its illegal dissemination of PROMIS were also involved in illegal trafficking in precious metals; and that the involvement of the Justice Department and the U.S. intelligence community had effectively immunized these individuals from criminal prosecution.

Williamson reportedly has copies of fax transmissions evidencing Dr. Von Bodungen's transmission to Williamson of the aforementioned typewritten questions and answers, and of the handwritten comments. Williamson has also recently obtained sworn answers to interrogatories in which Dr. Von Bodungen acknowledges having relayed such information to Williamson. Devereux has independent knowledge of the truthfulness of a number of the handwritten annotations attributed to Dr. Von Bodungen, and the annotations reportedly evidence a substantial understanding of the illegal trafficking in precious metals.

Based on depositions taken in the aforementioned civil litigation, Dr. Von Bodungen has worked on U.S. national security issues with the following individuals, each of whom was a Special Agent of the FBI at the time:

Gregory Dunn, Los Angeles
Mary Lord, New York City and San Diego
Tom Krobb, Reno, Nevada
John Allison, San Diego
Robert Burgess, Phoenix.

III. BUA'S INVESTIGATION OF POST-TRIAL LEADS ABOUT A MORE WIDELY-RAMIFIED CONSPIRACY INVOLVING EARL BRIAN AND THE INTELLIGENCE AND LAW ENFORCEMENT AGENCIES OF THE UNITED STATES AND FOREIGN GOVERNMENTS

F.1. (a) Computer Executive Implicated in the INSLAW Scandal Leaves Meese Justice Department to Become Officer in Company Owned by Maxwell

Section III.B.2.(b), "The Alleged Role of the Late Robert Maxwell in the Dissemination of PROMIS On Behalf of Israeli Intelligence," discusses the hiring in 1987 of George Vaveris and another senior computer systems executive at the Meese Justice Department by a McLean, Virginia, company owned by Robert Maxwell.

Vaveris was also an important player in the sham contract disputes that erupted in May 1983, the month after the Justice Department had obtained the proprietary version of PROMIS "through trickery, fraud and deceit." On approximately April 20, 1983, just several days after the Justice Department had taken delivery of the proprietary version of PROMIS pursuant to the April 11, 1983 Modification #12 to INSLAW's PROMIS Implementation Contract, the Chairman of Earl Brian's Hadron, Inc. threatened INSLAW President William Hamilton for refusing to meet to discuss the sale of INSLAW to Hadron. After telling Hamilton that Hadron would be able to obtain the federal government's case management software business as a result of its connections to Edwin Meese, then Counsellor to the President, the Hadron Chairman responded to Hamilton's unwillingness to sell INSLAW to Hadron by stating, "We have ways of making you sell."

The next month, the Justice Department's Contracting Officer for the PROMIS Implementation Contract, Peter Videnieks, began to withhold payments due INSLAW for services rendered under the contract. Videnieks had been brought into the Justice Department from the U.S. Customs Service for the specific purpose of administering the PROMIS Implementation Contract. Immediately prior to this Justice Department assignment, Videnieks had been administering U.S. Government contracts with Hadron, Inc.

When Videnieks began to apply financial pressure on INSLAW in May 1983, he did so by abruptly curtailing payments to INSLAW for the PROMIS computer time-sharing services that INSLAW was then providing to each of the 10 largest U.S. Attorneys' Offices.

George Vaveris was not only at that time the Justice Department's top official on computer time-sharing services by virtue of being the Director of the Justice Data Center, but Vaveris was also then providing PROMIS computer time-sharing services through the Justice Data Center to one of the Justice Department's legal divisions. If, therefore, Videnieks concocted a sham contract dispute with INSLAW over PROMIS computer time-sharing services, Vaveris' acquiescence in the scheme would have been important.

Justice Department documents that INSLAW obtained years later in litigation discovery suggest that Vaveris actively assisted Videnieks in perpetrating the sham dispute. Even though Vaveris' organization had independently prepared a PROMIS computer time-sharing cost estimate that verified the reasonableness of INSLAW's PROMIS computer time-sharing charges

under the PROMIS Implementation Contract, Vaveris loaned one of his computer time-sharing specialists to Contracting Officer Videnieks in order to help Videnieks support his decision that INSLAW's PROMIS computer time-sharing charges were unreasonably costly.

In 1981, the year before INSLAW won the competitive PROMIS Implementation contract, Vaveris' Justice Data Center organization, with its experience in operating PROMIS on a computer time-sharing basis, prepared a confidential, internal Justice Department cost estimate of what a commercial vendor should charge the Justice Department for 12 months of PROMIS computer time-sharing services for the 10 largest U.S. Attorneys' Offices. In May 1983, the month after it took delivery of the VAX version of PROMIS, the Justice Department suddenly denounced INSLAW's PROMIS computer time-sharing as exorbitantly expensive and refused to honor the Negotiated Agreement governing INSLAW's billings for the PROMIS computer time-sharing services. Notwithstanding the fact that INSLAW's charges were less than the amount that Vaveris' organization had privately estimated the service should cost, Vaveris lent one of his computer time-sharing subordinates from the Justice Data Center to Videnieks, the Justice Department's PROMIS Contracting Officer, in order to help Videnieks justify his decision to discontinue full payments of INSLAW's computer time-sharing invoices.

Both Vaveris and Videnieks obtained promotions subsequent to their participation in the malfeasance against INSLAW. Vaveris became a vice-president of a tiny company owned by Robert Maxwell and, as noted in III.B.2(b), "The Alleged Role of the Late Robert Maxwell in the Dissemination of PROMIS On Behalf of Israeli Intelligence," traded his estimated \$90,000 Justice Department salary for claimed compensation in excess of \$200,000 a year. Videnieks returned to the U.S. Customs Service to become the Director of Operational Procurement Division.

Both a current mid-level Justice Department career official (witness #3) and a former relatively senior employee of the Justice Management Division (witness #8) have told INSLAW that Justice Department officials who participated in the malfeasance against INSLAW obtained promotions and bonuses as rewards. (See Exhibit B to INSLAW's Analysis and Rebuttal of the Bua Report, July 12, 1993).

The following excerpts from the Bua Report, when viewed in the context of the aforestated facts in this section, illustrate the disabling effects of an institutional conflict of interest:

The evidence we reviewed indicates that Videnieks suspended payment of invoices for computer center services because of genuine concerns about potential cost overruns

This conduct, in our opinion, is consistent with a good faith attempt to protect the government from potentially serious cost overruns and overcharges and belies INSLAW's claim of a plan to force it into bankruptcy. The circumstances would not seem to support a finding of any motive or desire upon the part of any DOJ employee to inflict harm upon INSLAW or to force it into bankruptcy.

The Justice Department has rejected the findings of every outside review of its conduct in the INSLAW affair. Each time the Justice Department has undertaken its own self-examination, it has fully absolved itself of blame, whether the inquiry was conducted by its Public Integrity Section, its Office of Professional Responsibility, or its Special Counsel Nicholas J. Bua. The glaring deficiencies of the Bua Report are the inescapable result of an institution that arrogantly insists on being the only judge of its own conduct.

INTERNATIONAL BANKING REGULATOR

1**WORLD BANK**

Computer software may be a conduit to spy on banks' data bases.

January 17, 1994

U.S. Spy Agency May Be Tapping Foreign Banks' Computer Data

World Bank searches for software with eavesdropping bug planted in it

The World Bank is looking for software installed 11 years ago on one of its computers that allegedly enables a U.S. government spy agency to tap into its files.

But the World Bank isn't the only institution that may be vulnerable to spying by the National Security Agency via the use of this software, which is known by its original trade name PROMIS.

According to several current and former intelligence officials, the software also was sold outside the U.S. under other names to many large international banks. Although many of these banks may have stopped using the program, the sources said they believe the NSA is still getting confidential financial data from international banks through the PROMIS software.

World Bank staffers began searching for the software Jan. 4 on order of Ibrahim Shihata, vice president and general counsel of the bank. Shihata was responding to a request from Elliot Richardson, a former U.S. attorney general who represents the manufacturer of PROMIS, Inslaw Inc.

"We have not found anything yet," Shihata told *IBR* Jan. 11, "but I have asked the staff to look again more carefully."

The NSA has long had the capability to intercept electronic communications to and from the United States, and between other countries. But the bugged PROMIS software, according to former NSA and other intelligence officials, gave the supersecret spy agency the ability to directly access

CONTINUED ON PAGE FOUR

TECHNOLOGY

U.S. Spy Agency May Have Access To Banks' Computer Data Bases

CONTINUED FROM PAGE ONE

computers running the program. This access is made through a telecommunications "trap door" the NSA is alleged to have secretly embedded in the software. Any data that banks have on computers using PROMIS can be monitored by the NSA without the bank ever knowing it, software security experts said.

That the NSA may be doing this highlights a growing problem with the security of banking software in general. For that reason it does not surprise Robert Steele that the NSA may have bugged PROMIS.

Steele is a former intelligence officer and computer security specialist whose private company, Open Source Solutions Inc., is working to improve the integrity of computer communications.

"Banking is in deep trouble when it comes to the vulnerability of banking software," he said.

"There are software crises due to hackers all the time that you never hear about. They've built a house over a sinkhole," he added.

PROMIS is at the heart of a controversial legal battle that Inslaw has waged with the Justice Department for a decade. According to Inslaw, a proprietary version of PROMIS was stolen by Reagan-era Justice Department officials and modified by the NSA.

Inslaw alleges the software was then illegally sold under other names to scores of foreign intelligence agencies and financial institutions. Sources said the buyers include large international banks in Switzerland, Japan and Canada.

An investigation by the House Judiciary Committee in 1992 concluded that there was substantive evidence that a proprietary version of PROMIS with the "trap door" was illegally sold with the complicity of officials of the Reagan Justice Department. The committee called for appointment of a special prosecutor, but the Bush administration declined.

When it was developed, PROMIS was the most powerful program of its type and was light years ahead of efforts by U.S. intelligence agencies to develop anything similar.

A former NSA official who retired in 1981 confirmed to *IBR* that in the early 1980s the NSA was "desperately" working to develop software that had the same capabilities as PROMIS.

Sources told *IBR* the CIA especially wanted PROMIS installed at the World Bank so it would have an "early warning" to the failure of Latin American banks, whose default at the time was a serious U.S. economic and national security policy problem.

A spokesman for the Institute of International Bankers said the group was not aware of any international banks that purchased software either known as PROMIS or some other name which had similar capabilities, but would be

concerned if the U.S. was tapping international banks' computers.

The bugged proprietary version of PROMIS that allegedly was provided to the World Bank was one that ran only on a VAX 32-bit mid-range computer made by Digital Equipment Corp. According to past and present World Bank sources, a program called PROMIS was obtained by the bank in the summer of 1983 which ran on the VAX computer.

One of these sources, a computer systems specialist who worked in the bank's computer center, said around June 1983 a program called PROMIS "suddenly showed up" installed on a Digital VAX computer used for tracking international message traffic in the World Bank and that it had "a tie-in" to the International Monetary Fund. The source said it was "openly referred to by name as PROMIS and it was on a 32-bit VAX, there's no question about that." He said the World Bank was still using the program when he left in 1986.

A senior Justice Department official further told *IBR* that top Justice officials—one of whom is still at Justice and previously worked for the CIA—met with World Bank officials in June 1983 to discuss installing the VAX version of PROMIS "for security tracking purposes."

"If the World Bank was operating software called PROMIS on a 32-bit VAX, it could only have been our proprietary version that Justice claims it never allowed out of its possession," said Bill Hamilton, president of Inslaw and a

former NSA analyst.

PROMIS is suspected to be the unnamed eavesdropper that figures into top secret reports from the Secretary of State's office during the Reagan administration. One of the documents contains details of banking transactions on deposits and withdrawals between the Panamanian branch of the Discount Bank and Trust of Switzerland and a bank in the Cayman Islands. Intelligence experts familiar with electronic intelligence-gathering methods who reviewed the documents for *IBR* said the way the details were collected for the report indicate they could only have been obtained through electronic access to at least one of the banks' computer data bases.

Officials of the bank were unavailable for comment.

The time Inslaw alleges its bugged software began to be distributed by U.S. intelligence agencies coincides with the time that a high-level CIA officer who retired in 1991 told *IBR* the CIA penetrated the computers of foreign banks under an initiative he said was sanctioned by then CIA director William Casey.

In addition, Ari Ben-Menashe, a former Israeli military intelligence official, said in a book he published last year that Credit Suisse bought PROMIS in 1985 from a company fronting for Israeli and U.S. intelligence. The bank was used by the Reagan White House to channel Iran-contra funds. Several of the accounts remain frozen.

Bank officials could not be reached for comment. □

PROMIS is suspected of being the unnamed eavesdropper that figures into top secret reports from the Secretary of State's office.

INTERNATIONAL BANKING REGULATOR

January 24, 1994

Congress Backs Claims That Spy Agencies Bugged Bank Software

A congressional committee turned up evidence that U.S. intelligence agencies bugged the computer systems of international banks in the early 1980s as part of a top secret U.S. intelligence initiative, a Capitol Hill source told *International Banking Regulator*.

But this information has not been made public previously because it was uncovered during the final stages of a congressional probe in 1992, too late to include in the final report, a congressional source said Jan. 19.

The new information came to light after a Jan. 17 report by this newsletter describing the vulnerability of foreign banks to U.S. spy agencies. The source, who asked not to be named, said the House Judiciary Committee turned up evidence in 1992 that software named PROMIS was stolen by Reagan-era Justice Department officials and sold through private firms to international banks after the National Security Agency bugged the software to give it access to the banks' records.

A senior Justice official told *IBR* the bugged software was provided to the World Bank at the behest of the CIA following meetings between bank officials and two high-level Reagan administration officials, one of whom previously worked for the CIA and is still working at Justice. The CIA allegedly wanted PROMIS installed on World Bank computers so it would have an "early warning" of the failure of Latin American banks, a hot national security issue at the time.

World Bank officials told *IBR* Jan. 18 they were continuing to search for the software. The bank began looking following an inquiry Jan. 4 by Elliot Richardson, attorney for the software's manufacturer, Inslaw Inc.

—Anthony Kimery